

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

4 IN RE: NATIONAL)
PRESCRIPTION) MDL No. 2804
5 OPIATE LITIGATION)
) Case No.
6) 1:17-MD-2804
THIS DOCUMENT RELATES)
7 TO ALL CASES) Hon. Dan A. Polster

8 - - -

9 THURSDAY, NOVEMBER 15, 2018
10 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

11 - - -

12
13 Videotaped deposition of Mark Hartman,
14 held at the offices of BakerHostetler, 200 Civic
15 Center Drive, Suite 1200, Columbus, Ohio, commencing
16 at 9:06 a.m., on the above date, before Carol A. Kirk,
17 Registered Merit Reporter and Notary Public.

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22

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Darnell Brown, Golkow Litigation Services

TRIAL TECHNICIAN:

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P R O C E E D I N G S

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4

THE VIDEOGRAPHER: Good morning.

5

We are now on the record. My name is

6

Darnell Brown, and I'm the videographer

7

with Golkow Litigation Services.

8

Today's date is November 15, 2018, and

9

the time is 9:06 a.m.

10

This video deposition is being

11

held in Columbus, Ohio, in the matter of

12

National Prescription Opioid Litigation

13

for the United States District Court for

14

the Northern District of Ohio. The

15

deponent is Mark Hartman.

16

Counsel, please identify

17

yourselves for the record.

18

MR. FULLER: Mike Fuller on behalf

19

of the Plaintiff.

20

MS. QUEZON: Amy Quezon on behalf

21

of the Plaintiff.

22

MR. KROEGER: Rick Kroeger on

23

behalf of the Plaintiff.

24

MR. ELKINS: A.J. Elkins on behalf

1 of the Plaintiff.

2 MR. GRAY: Mark Gray on behalf of
3 the Plaintiffs.

4 MR. WHITE: Matt White on behalf
5 of the Plaintiffs.

6 MR. SHACKELFORD: Bill Shackelford
7 on behalf of Prescription Supply
8 Company.

9 MR. GORDON: Chris Gordon on
10 behalf of Mallinckrodt, LLC, and
11 SpecGX LLC.

12 MS. BORSAY: Casteel Borsay on
13 behalf of Walmart.

14 MS. MONAGHAN: Meghan Monaghan on
15 behalf of McKesson.

16 MR. MOYLAN: Daniel Moylan on
17 behalf of CVS.

18 MR. HIMMEL: Brian Himmel on
19 behalf of AmerisourceBergen Corporation.

20 MS. ADAMS: Katelyn Adams on
21 behalf of Cardinal Health.

22 MR. MONAHAN: Matthew Monahan on
23 behalf of Cardinal Health.

24 MR. PYSER: Steven Pyser on behalf

1 of Cardinal Health and the witness.

2 THE VIDEOGRAPHER: The deponent
3 [sic] is Carol Kirk, who will now swear
4 in the witness.

5 (Witness sworn.)

6 MR. FULLER: Can we get everybody
7 else on the phone to introduce
8 themselves, please, for the record.

9 Is there anybody on the phone?

10 Mr. Hartman, they didn't find us
11 very interesting today, apparently.

12 THE WITNESS: It's a shame. I was
13 hoping for record numbers.

14 MR. FULLER: You know,
15 pay-per-view, maybe. All right. Well,
16 I'm guessing there is nobody on the
17 phone.

18 - - -

19 MARK HARTMAN
20 being by me first duly sworn, as hereinafter
21 certified, deposes and says as follows:

22 CROSS-EXAMINATION

23 BY MR. FULLER:

24 Q. Mr. Hartman, you currently have a

1 consulting company; is that right?

2 A. Yes.

3 Q. And how long has that consulting
4 company been in existence?

5 A. Two years, maybe.

6 Q. And you sort of hesitated. Is it
7 because you're not doing very much work with it
8 or what's --

9 A. That's right. That's right.

10 Q. Are you basically retired at this
11 point?

12 A. Yes.

13 Q. Okay.

14 A. Yeah.

15 Q. And did you retire after leaving
16 Cardinal?

17 A. No.

18 Q. What work did you have after
19 leaving Cardinal? And that was approximately
20 2000 and -- early 2010?

21 A. February 2010.

22 Q. Okay.

23 A. I left Cardinal at that time
24 period, and in March of 2010, I joined Rexel,

1 French-based company. I worked here in the
2 United States.

3 Q. Mm-hmm.

4 A. I was at Rexel about 18 months,
5 left there. And then I joined a private
6 company, Guild Associates, here locally in
7 Dublin, Ohio, chemical engineering firm.

8 Q. And what type of work did you do
9 for Rexel?

10 A. I was the VP of operations. So
11 for the United States, I had the operations
12 within the facilities, logistics, you know,
13 efficiency, processes, practices, things like
14 that.

15 Q. And then why did you leave Rexel
16 and go to -- and I'm sorry -- the name?

17 A. Guild Associates.

18 Q. Guild Associates?

19 A. Rexel is a great company. I was
20 traveling 100 percent of the time. I was living
21 in Dublin, Ohio. My office was in Dallas.
22 Guild Associates was ten minutes from my house
23 here in Dublin. It was a nice opportunity to
24 step into another role as CEO there. So I -- I

1 took the option to move back home and then
2 finish out my career at Guild.

3 Q. And how long were you with Guild?

4 A. Four years, eight months.

5 Q. And then did you retire from Guild
6 at that point?

7 A. Yes.

8 Q. And you've remained basically
9 unemployed since then?

10 A. Pretty much. I've got a partner
11 who has an enterprise he's starting up, and I've
12 invested with him. I'm pretty much a silent
13 partner, but it's a leadership consulting
14 business, an event business. I -- we haven't
15 done any work together in the consulting role.
16 I've just invested with him and maybe down the
17 road we'll do some work.

18 Q. And who is that partner?

19 A. Craig Lucas.

20 Q. Okay. And what's the name of that
21 company?

22 A. Authenica, A-u-t-h-e-n-i-c-a.

23 Q. So after leaving Cardinal in
24 February of 2010 -- correct?

1 A. Yeah.

2 Q. Okay. Did you do any consulting
3 for Cardinal from that point forward?

4 A. Never.

5 Q. Okay. And you worked for Cardinal
6 for over a decade; is that right?

7 A. Yes.

8 Q. Okay. Let's pull up P13900.

9 - - -

10 (Cardinal-Hartman Exhibit 1 marked.)

11 - - -

12 MR. FULLER: And, Steve, I'm just
13 going to hand you all the copies and let
14 you pass them out; is that okay?

15 MR. PYSER: Yeah, that's great.

16 Thank you.

17 MR. FULLER: Sure.

18 This will be marked Plaintiff's
19 Number 1 or -- yeah, however y'all label
20 them.

21 (Discussion held off the record.)

22 BY MR. FULLER:

23 Q. So, Mr. Hartman, sort of how this
24 is going to work, is you have a screen in front

1 of you. You'll see the document that I'm
2 referring to on the screen, and wherever I'm
3 flowing or we're flowing on the document will be
4 highlighted for you, as well as potentially
5 blown up. So you'll have the hard copy in front
6 of you as well as the screen to use. Okay?

7 A. Okay.

8 Q. All right. Have you seen this
9 e-mail before?

10 A. Yes.

11 Q. This is an e-mail that explains
12 back in December of 2007 you were taking
13 appointment as a senior vice president of Supply
14 Chain Integrity and regulatory operations for
15 HSCS; is that correct?

16 A. That's right.

17 Q. And what is HSCS, for the jury?
18 Healthcare Supply Chain Services?

19 A. Thank you.

20 Q. You're welcome.

21 A. I forgot the acronym.

22 Q. I understand. I understand.

23 And if you look down at the
24 announcement portion, and this was sent out, at

1 least according to the e-mail, when?

2 A. December 19, 2007.

3 Q. Okay. And let me ask, had you
4 left Cardinal for a brief period at that point?

5 A. Hadn't left. We were going
6 through a reorganization. My position was being
7 eliminated, the one I was in previously, so we
8 were looking for roles inside of the company and
9 I was looking externally as well.

10 This position became available,
11 and Cardinal offered it to me. So there was
12 about a month in there between that role ending
13 that I was in and then this role coming up.

14 Q. So were you actually unemployed
15 during that time?

16 A. No, I was still a Cardinal
17 employee.

18 Q. You just didn't have a spot?

19 A. That's right.

20 Q. Fair enough. Fair enough.

21 And if you will, read the first
22 sentence for us.

23 A. Of the announcement?

24 Q. Yes, sir.

1 A. "We are pleased to announce the
2 appointment of Mark Hartman to the position of
3 Senior Vice President, Supply Chain Integrity
4 and Regulatory Operations for HSCS reporting to
5 both of us."

6 Q. And "both of us" indicates who?

7 A. And -- let's see.

8 Q. If you look at the front section.

9 A. So that's Jeff Henderson and
10 Gary Dolch.

11 Q. And who is Mr. Henderson; do you
12 know?

13 A. Yes. He's the -- he was the chief
14 financial officer at the time and the interim
15 CEO.

16 Q. And the CEO for Healthcare Supply
17 Chain Services, correct?

18 A. HS -- yeah, yes, that's correct.

19 Q. The acronym that we were
20 struggling with earlier?

21 A. Correct.

22 Q. And who is Mr. Dolch?

23 A. EVP quality and regulatory
24 affairs.

1 Q. And just for the jury, EVP is
2 what?

3 A. Executive vice president.

4 Q. Fair enough.

5 And then go on, if you will, and
6 read your portion where it describes your role,
7 what role you'll be filling for Cardinal.

8 A. "Mark will be responsible for
9 leading HSCS' initiative to build and operate
10 state of the art diversion prevention, supply
11 chain integrity and regulatory compliance
12 processes and systems."

13 Q. And you know when you were coming
14 into this role that the supply chain integrity
15 was lacking, correct?

16 A. In what way?

17 Q. It wasn't sufficient?

18 MR. PYSER: Object to form.

19 Q. Or do you disagree with that?

20 A. Yeah. I'm not sure it was not
21 sufficient.

22 Q. Let's continue. Read the next
23 sentence for us.

24 A. "This position is a critical role

1 for the company as supply chain integrity
2 continues to become an area of increased focus
3 by regulatory agencies and customers alike."

4 Q. And you're aware during this time
5 that this was an issue of focus, particularly
6 for the DEA?

7 A. I'd become aware of it as the role
8 was offered to me.

9 Q. Okay. You also became aware that
10 Cardinal had three facilities get their license
11 suspended for the lack of supply chain
12 integrity, correct?

13 MR. PYSER: Object to form.

14 A. As the role was offered to me,
15 that's when I became aware of what had happened.

16 Q. Okay. And that was that three
17 distribution centers, Lakeland, Swedesboro, and
18 Washington, had their license stripped from them
19 because of supply chain integrity issues. Is
20 that your understanding?

21 MR. PYSER: Object to form.

22 A. Their licenses were suspended, as
23 I came to understand.

24 Q. Did the DEA just come in and

1 suspend them for no reason?

2 What were the allegations, if you
3 know, Mr. Hartman?

4 A. I would need to review it, but I
5 believe it was due to the anti-diversion issues
6 that the company was facing with the DEA.

7 Q. And that's included in supply
8 chain integrity; isn't that right?

9 A. That's right.

10 Q. Okay. So it was the supply chain
11 integrity issues that caused the license to be
12 suspended. We can agree on that, correct?

13 A. Yes.

14 Q. Okay. Continue reading,
15 "Reporting to Mark ..."

16 A. "... will be Steve Reardon, Vice
17 President, Quality and Regulatory Affairs for
18 HSCS, and Michael Moné, Vice President of
19 Anti-Diversion."

20 Q. So if we're looking at the
21 hierarchy now, when you come into this
22 position -- and this is a new position for you,
23 correct?

24 A. Yes.

1 Q. Had you worked in regulatory
2 before?

3 A. No.

4 Q. You're taking over both the QRA,
5 quality regulatory affairs, and the
6 anti-diversion segment, correct?

7 A. Correct.

8 Q. And you have Mr. Reardon and
9 Mr. Moné reporting to you?

10 A. Yes.

11 Q. And you're aware that Mr. Reardon
12 had been with the company for quite some time;
13 is that right?

14 A. Yes.

15 Q. And Mr. Moné was a more recent
16 hire?

17 A. He came from one of our divisions
18 into HSCS.

19 Q. Okay. And at this time when you
20 take the position, who are your direct reports?

21 A. Steve Reardon and Michael Moné.

22 Q. Okay. No, no, no. I apologize.
23 Let me ask the question again.

24 Who were you directly reporting

1 to?

2 A. Okay.

3 Q. Sorry about that.

4 A. Yeah. I was reporting directly to
5 Gary Dolch for my role.

6 Q. And what was Mr. Henderson's role?

7 A. He, at the time, was a CFO. HSCS
8 president had left the company earlier. So he
9 was in that interim role as CEO. But for my
10 time there, as I entered the role, Gary Dolch
11 was the person that I reported to directly, and
12 then later on that was just officially made as
13 we agreed that reporting to Gary was the -- was
14 the best way for us to run the department.

15 Q. Fair enough.

16 So let's move up to your
17 forwarding of this e-mail.

18 A. Sure.

19 Q. And who is it that you send this
20 e-mail to and when do you do that?

21 A. Strat Sherman on December 20,
22 2007.

23 Q. Is that a Mr. or Ms. Sherman?

24 A. Mr.

1 Q. Mr. Who is Mr. Sherman?

2 A. He had done work at Cardinal
3 Health as a consultant. Continued to stay in
4 contact with him, so I was letting him know I
5 was back in the job.

6 Q. And what's the name of that
7 company he works for?

8 A. Accompli.

9 Q. Do you know what Accompli does?

10 A. A consulting firm.

11 Q. That Cardinal has used in the
12 past?

13 A. Used in the -- not in -- not in
14 anti-diversion but in the past had used them,
15 and that's where I met him.

16 Q. And just out of curiosity, what
17 type of issues would they consult on?

18 A. We were in other roles. We were
19 running a transformation of the organization.
20 And Strat worked primarily on HR issues and just
21 the work of transformation because it's so big
22 and broad. We would work across lines.

23 Q. What type of transformation?

24 A. Cardinal was involved with back --

1 particularly -- I mean, it was a pretty big
2 operation, but back office consolidations. We
3 had many acquisitions, several divisions, and
4 like most corporations, you look at your back
5 office operations and look for ways to become
6 more efficient. So that's what the
7 transformation was primarily about.

8 Q. Got it. And in this e-mail, you
9 say that "Cardinal Corporate working for Gary D.
10 and Jeff H."

11 That's Mr. Dolch and
12 Mr. Henderson; is that correct?

13 A. Yes.

14 Q. And "Here is the news that was
15 sent out."

16 Read the next sentence for us,
17 please.

18 A. "A real surprise to be asked back,
19 but the recent issues need lots of attention."

20 Q. Why were you surprised to be asked
21 back?

22 A. I didn't expect that a job would
23 pop up.

24 Q. Was there any issues with your

1 departure when you left?

2 A. No.

3 Q. No bad blood, from your opinion?

4 A. None.

5 Q. Okay. And it says "Hence, a new
6 role for me."

7 Right?

8 A. Correct.

9 Q. And then read the sentence, "I
10 think I'm adding ..."

11 A. ... "immediate help and will have
12 the opportunity to effect the longer term."

13 Q. Continue.

14 A. "I like that as I have lots of
15 sweat equity in this place and we're too good to
16 be driven down."

17 Q. And you'd been there for quite
18 some time?

19 A. Yes.

20 Q. Almost a decade by this point,
21 correct?

22 A. Yes.

23 Q. '98 was when you started or about
24 there?

1 A. Probably about -- yeah, about ten
2 years.

3 Q. Which, if I'm not wrong, is a
4 decade?

5 A. I think you're right on that.

6 Q. I hope so.

7 The reason you were concerned
8 about the company being driven down is because
9 the company had a result-oriented culture; isn't
10 that true?

11 MR. PYSER: Object to form.

12 Q. And bad decisions were being made
13 at the higher levels?

14 A. I don't know what you mean by
15 that.

16 Q. Do you know what -- have you ever
17 heard of a result-oriented culture?

18 A. Sure.

19 Q. Okay. So are you agreeing or
20 disagreeing that Cardinal operated in a
21 result-oriented culture, focused on the end
22 game?

23 A. Cardinal's a public company. We
24 drove for efficiencies and to drive the best

1 business for our shareholders and certainly to
2 be a profitable company.

3 Q. That's what shareholders want to
4 see, right?

5 A. Sure.

6 Q. I mean, they want the returns?
7 People invest. I mean, it's a publicly traded
8 company, as you mentioned, right?

9 A. Correct.

10 Q. Stockholders, not around -- just
11 around the country, but around the world?

12 A. That's right.

13 Q. And the leadership is responsible
14 to the board of directors who's elected and
15 appointed by the shareholders; isn't that true?

16 A. Yep.

17 Q. And so the focus is going to be
18 making money, right?

19 A. Well, I'm not sure that's the only
20 focus any company has. Our focus is to deliver
21 and service our customers, to service the
22 industry we're in, and certainly to make money.

23 Q. Sure.

24 A. It's not the only purpose that

1 you're there as a corporation.

2 Q. So let me ask you again. Based on
3 your decade of experience with Cardinal, did
4 they or did they not have a result-oriented
5 culture?

6 A. Certainly. We were results
7 oriented.

8 Q. And there were times that bad
9 decisions were made, as we saw by the suspension
10 of three licenses from distribution centers?

11 MR. PYSER: Object to form.

12 Q. Correct?

13 A. I think in this case, as I got
14 into it, or the situation -- what you have to
15 understand is I hadn't worked in this space. It
16 was new to me. And what I found is that our
17 processes and systems were working, and what
18 happened was, the DEA changed on us
19 immediately -- then they put the immediate
20 suspensions in place, and that's when I stepped
21 in and began to learn much more about it.

22 Q. So --

23 A. So when you say "bad decisions," I
24 don't know that I agree with that.

1 Q. So your processes and systems were
2 working, in your opinion?

3 A. It wasn't during my time frame.

4 Q. You weren't reporting -- excuse
5 me. You guys weren't -- you were reporting all
6 suspicious orders?

7 A. It wasn't during my time frame.
8 As I understand our processes, and this is after
9 I came into role, we were of the belief that our
10 processes and systems were working.

11 Q. And just to clarify, you believe
12 the processes and systems that were in place
13 prior to you taking on that role in December of
14 '07, the systems and processes at Cardinal
15 Health were working related to anti-diversion?

16 A. I wasn't there at that time. I
17 wasn't in the role. I had no -- no part of
18 that. What I came to understand was, we
19 believed -- I wasn't in it. We believed that
20 our processes and systems were working.

21 Q. I understand that. I understand
22 that.

23 Now, would you agree or disagree,
24 when you come into this role, this new role as

1 head of regulatory, you need to see what systems
2 were in place and what was being done before to
3 decide the right path to fix it or correct it or
4 do whatever it is you're going to do, correct?

5 A. When I came into role, of course,
6 to your point about the immediate suspensions,
7 that's pretty severe. I didn't spend time
8 looking back. We immediately jumped in to try
9 to figure out what it is we needed to do and
10 push forward.

11 I didn't spend a lot of time going
12 back. I didn't look at a lot of the process. I
13 didn't spend time on them. We pushed forward so
14 that we could get the DEA's support and -- as
15 quickly as we could get our suspensions lifted,
16 get our DCs back online.

17 Q. So you've already testified that
18 you believe the systems that were in place prior
19 to were adequate.

20 A. I testified that --

21 Q. Hold on. Let me finish, please.

22 A. -- we understand that our systems
23 and processes worked at the time.

24 Q. Mr. Hartman, you have to let me

1 finish my question before you start answering.

2 Okay?

3 A. I understand.

4 Q. And I will let you finish your
5 answer before I start asking my next question.

6 A. Very good.

7 MR. PYSER: For the record,
8 Counselor, the question seemed complete.

9 MR. FULLER: No, it wasn't
10 complete. I assure you I was still
11 going.

12 MR. PYSER: Well, when you pause
13 after a full sentence, it's
14 understandable that the witness
15 thought --

16 MR. FULLER: I did not --

17 MR. PYSER: -- you made a complete
18 question. Please don't criticize him
19 for trying to answer your question.

20 MR. FULLER: No. I'm not
21 criticizing him at all. I just said not
22 how the depo is to proceed.

23 THE WITNESS: I'm ready to listen.

24

1 BY MR. FULLER:

2 Q. Thank you, Mr. Hartman.

3 You've already testified that you
4 believe that the systems in place were
5 sufficient. I want to know, if you didn't look
6 back, what is the basis for saying that the
7 systems were sufficient?

8 A. I said that we, my colleagues at
9 Cardinal that I joined in the department,
10 believed that our processes and system worked.

11 Q. All right. So those people who
12 operated the system that caused the severe
13 suspension of three licenses believed they were
14 doing the right thing, right?

15 A. I think that's correct.

16 Q. Okay.

17 MR. FULLER: Let's go to 4391.

18 - - -

19 (Cardinal-Hartman Exhibit 2 marked.)

20 - - -

21 BY MR. FULLER:

22 Q. This will be Plaintiff's Exhibit
23 Number 2.

24 So, Mr. Hartman, if you'll look at

1 the second e-mail in the chain there from
2 Mr. Dolch, it includes you; is that correct, on
3 January 21, 2008?

4 A. It includes me. I can see that.

5 Q. Do you recall getting this e-mail?

6 A. I don't recall this. I have to
7 read it, so give me a minute.

8 Q. Have you seen this e-mail before,
9 Mr. Hartman?

10 A. Yes.

11 Q. I mean, certainly you have. It
12 was sent to you, right?

13 A. Yeah. I recall -- I recall
14 getting -- seeing this.

15 Q. Now, since the time you got it --
16 let me ask. You prepared for this deposition;
17 is that correct?

18 MR. PYSER: I caution you not to
19 reveal the content of any communications
20 with counsel.

21 Q. Yeah. Don't tell me anything that
22 your lawyers told you.

23 A. Yes.

24 Q. Okay. And how much time did you

1 spend preparing for this depo, either the first
2 time it was set or this time, combined?

3 A. Probably 20 hours, I'd say.

4 Q. Okay. And counsel sitting next to
5 you, Mr. Pyser, represents you in this matter;
6 is that right?

7 A. Yes.

8 Q. At what point did you decide to go
9 out and hire a lawyer?

10 A. I didn't hire a lawyer.

11 Q. So Mr. Pyser doesn't represent you
12 at this time?

13 A. Sorry. I didn't understand your
14 question.

15 Q. So I want to know when you
16 decided, "Hey, I need a lawyer. I'm going to
17 call someone and hire a lawyer."

18 When did you make that
19 determination?

20 MR. PYSER: Just going to caution
21 you again not to reveal the content of
22 any communications we've had.

23 A. I'm going to say September time
24 frame. I don't remember the exact date.

1 Q. So what caused you to decide you
2 needed a lawyer? Because I didn't serve you
3 with a subpoena.

4 A. I was notified that I was a
5 potential deposition candidate.

6 Q. And who were you notified by?

7 A. Initially a lawyer from
8 BakerHostetler.

9 Q. Do you know who that lawyer was?

10 A. I don't remember her name, because
11 I didn't talk to her again. Just once.

12 Q. Okay. And what did you guys
13 discuss?

14 MR. PYSER: Object to form.

15 Excuse me. Objection.

16 Don't answer that question on the
17 grounds of privilege.

18 BY MR. FULLER:

19 Q. Did you hire that lawyer?

20 A. No.

21 Q. So she wasn't your attorney,
22 right?

23 MR. PYSER: Objection. It's
24 privileged. There's a common interest

1 between Cardinal Health and Mr. Hartman.
2 The communications he had with the
3 lawyer from BakerHostetler who called,
4 who I believe is actually a Cardinal
5 Health employee in their legal
6 department, are privileged and are not
7 the subject of this deposition.

8 MR. FULLER: I'll certify the
9 issue, and we'll take it up with the
10 Judge.

11 BY MR. FULLER:

12 Q. All right. So when after that
13 point did you decide to hire
14 Williams & Connolly, or did they call you, too?

15 A. I -- we -- I think it was shared
16 e-mail, phone numbers, and I don't recall if I
17 called first or Steve called me first sometime
18 in September, I'm going to say. Again, I don't
19 remember the dates. But I'm going to say
20 sometime in September is probably around that
21 phone call.

22 Q. So did you already have
23 Mr. Pyser's number or e-mail address, or did he
24 e-mail you first?

1 A. I believe it was provided from the
2 first contact that I had.

3 Q. The young lady with
4 BakerHostetler?

5 A. Whoever called me first is how
6 that contact occurred.

7 Q. Fair enough. Fair enough.

8 And -- strike that.

9 All right. So let's turn to
10 the -- let me back up. I apologize. I'm
11 jumping a bit too fast.

12 The original e-mail, what's the
13 subject line?

14 A. It is "GLT Communication."

15 Q. "Subject" line, not the "to" line.

16 A. Oh, excuse me.

17 Q. That's all right.

18 A. "In the penalty box."

19 Q. In the penalty box. Who is this
20 e-mail from?

21 A. Kerry Clark.

22 Q. Who is Mr. Clark; do you know?

23 A. CEO.

24 Q. CEO of what?

1 A. Cardinal Health.

2 Q. All of Cardinal or one of these
3 divisions?

4 A. Would be all of Cardinal.

5 Q. So he's the top dog?

6 A. He's the CEO.

7 Q. The president, the top boss?

8 A. He's the CEO.

9 Q. Is that a top boss?

10 MR. PYSER: Object to form. Asked
11 and answered.

12 MR. FULLER: Well, no. I asked if
13 he's the top boss. He said he's the
14 CEO. I don't know if they're one and
15 the same.

16 BY MR. FULLER:

17 Q. Is he the top boss?

18 MR. PYSER: Object to form.

19 A. He is the CEO.

20 Q. What does that mean?

21 A. He runs the company.

22 Q. So he is the top boss? He had the
23 ability to hire and fire you?

24 A. Oh, yes.

1 Q. Mr. Dolch?

2 A. Yes.

3 Q. Mr. Henderson?

4 A. Yes.

5 Q. Just about anybody he wanted to
6 that was employed with Cardinal?

7 A. Well, that's probably true.

8 Q. Fair enough.

9 And let's go to the second page of
10 his e-mail.

11 Do you see there he says,
12 "Obviously, the biggest are the SEC issue, two
13 consecutive Alaris" -- did I just pronounce that
14 right?

15 A. I think so.

16 Q. -- "Alaris recalls" and "a number
17 of MPT recalls."

18 What are "MPT"?

19 A. No clue.

20 Q. Fair enough.

21 "And the DEA controlled substance
22 license suspensions in three locations."

23 If you'll read from there for me.

24 A. "Beyond these, Gary Dolch's

1 quarterly QRA report lists a startling number of
2 issues, including six OSHA violations and a
3 significant fine at a Syracuse, New York
4 facility."

5 Q. Do you know what all the issues
6 were in Mr. Dolch's QRA report?

7 A. I don't.

8 Q. Did you ever see the report?

9 A. I don't remember it.

10 Q. Now, I'm assuming if he's doing a
11 quarterly report, and this is January, it
12 probably would have been for the last quarter of
13 2007; is that fair?

14 A. More than likely, yeah, I would
15 agree with that. I think so.

16 Q. Do you know if you were ever
17 provided with that report?

18 A. I don't recall seeing it. I might
19 have. I mean, I was in Gary's -- obviously
20 reporting to Gary, but we were pretty focused on
21 anti-diversion, so I wasn't spending a lot of
22 time in meetings other than what we had going on
23 there.

24 Q. Well, and the QRA report would

1 cover anti-diversion, correct?

2 A. I would -- I would assume so. He
3 comments on it here.

4 Q. Okay. And then read the next
5 sentence.

6 A. "Shocking, isn't it?"

7 Q. No. "If you added up ..."

8 A. Oh. "If you added up the -- if
9 you add up our fines, settlements, and lost
10 business over the last 18 months, the total
11 would come to close to 1 billion."

12 Q. And clearly Mr. Clark is --
13 clearly Mr. Clark is not happy with this, is he?

14 A. Oh, yeah. I agree with that.
15 He's -- it's his company. He wants ideal
16 performance.

17 Q. A billion dollars to lose is a lot
18 of money, isn't it?

19 A. A billion dollars is definitely a
20 big sum.

21 Q. No question about that, right?

22 A. It's a big sum.

23 Q. Now, let's go down to the next
24 paragraph. Excuse me. Two. Can you start

1 where it says "As we begin" and read that aloud
2 for the jury, please.

3 A. Yes. "As we begin -- as we begin
4 to look at the Voice of the Employee results,
5 which are being compiled and analyzed as we
6 speak, it's clear we have vertical communication
7 issues and our employees do not fully trust
8 their leaders."

9 Q. Now, let me ask -- stop there.
10 Voice of the Employee, that was a survey that
11 was sent out to all the employees at Cardinal;
12 is that right?

13 A. That's correct.

14 Q. And you got that when you were on
15 the operational side as well; isn't that true?

16 A. Yes.

17 Q. And Mr. Clark here is telling
18 everybody that our employees do not fully trust
19 our leaders?

20 A. That's what he says.

21 MR. PYSER: Object to form.

22 Q. That's a problem, isn't it?

23 You're former military, correct?

24 A. Yeah. That's always -- that's

1 always an issue.

2 Q. I mean, it's not just an issue.

3 It's a problem. That's something you do not
4 want if you're operating a company to the best
5 of its ability, correct?

6 A. Well, as -- you know, as I recall,
7 you know, during this time period, there was
8 lots going on besides what he writes here. We
9 were in a -- we were in severe economic
10 downturn. All companies were suffering at that
11 point. And if I recall, which I have nothing to
12 base it on other than other companies I worked
13 at -- at a time period like that, trust of
14 leaders is always on the low end.

15 Q. And clearly Cardinal was no
16 exception. Cardinal's employees did not trust
17 its leadership at this time --

18 A. I think his words are --

19 Q. -- according to Mr. Clark?

20 A. -- "do not fully trust." So
21 there's differences there between "do not trust"
22 and "do not fully trust."

23 Q. So then partially trust.

24 A. So then if you're taking them

1 and -- if you're taking the whole group, having
2 worked there, and my memory from when I was
3 there, and my own performance, I think I was
4 pretty highly trusted at all times.

5 Q. Even when you were in QRA?

6 A. Even when I was in QRA.

7 Q. Fair enough.

8 Read the next sentence aloud for
9 us.

10 A. "Perhaps our results-oriented
11 culture is leading to ill-advised or
12 short-sighted decisions."

13 Q. This is coming to the captain of
14 the ship, isn't it? Mr. Clark is the --

15 A. The CEO.

16 Q. -- the CEO, the top dog. There's
17 no one above him other than the board of
18 directors, right?

19 A. Yes, that's correct.

20 Q. And he's saying this
21 results-oriented -- read that again.

22 What does it say?

23 A. "Our results-oriented culture is
24 leading to ill-advised or short-sighted

1 decisions."

2 Q. And he's referring back to --

3 MR. PYSER: Object to form.

4 Incomplete part of the sentence.

5 Q. And he's referring back to the
6 issues that we just talked about, costing the
7 company a billion dollars, isn't he?

8 A. Well, he wrote it. I assume so.
9 You have to ask him if he's referring to
10 anything else.

11 Q. I will be happy to do that.

12 Read the next sentence for us.

13 A. "We need to work this out, and
14 action planning around the Voice of the Employee
15 results will be an important part of our March
16 GLT meeting."

17 Q. And help us out. What's "GLT"?
18 That's an acronym I can't help you with. Sorry.

19 A. Global leadership team.

20 Q. Global leadership team?

21 A. Yes.

22 Q. Do you know who was on the global
23 leadership team?

24 A. Don't ask me to name them. I

1 can't remember the numbers. I'm going to -- I
2 would -- I would be guessing, but, you know,
3 the -- 50 of the senior people, 60, 100, I don't
4 know who he had on the global leadership team,
5 but that was -- that was a senior team of
6 managers.

7 Q. So the e-mail's originally
8 forwarded by Mike Kaufmann.

9 Do you see that there?

10 A. In the e-mail string you're
11 seeing -- saying?

12 Q. Yes, sir.

13 Mr. Clark sends it to
14 GLT Communication, right?

15 A. Give me a moment.

16 Q. Sure.

17 A. Okay. I've read that, Mike's
18 e-mail.

19 Q. So Mr. Clark sends this e-mail to
20 his GLT Communication group, right?

21 A. Yes.

22 Q. And then from there, Mr. Kaufmann
23 forwards it to Mr. Dolch; is that correct?

24 A. Yes.

1 Q. And who is Mike Kaufmann?

2 A. At this time, Mike is the
3 leader -- I want to say title was president. It
4 might have been CEO of the medical side of the
5 business.

6 Q. And that's since changed, correct?

7 A. Yes, that changed.

8 Q. He's currently the CEO?

9 A. He is, yes.

10 Q. Over the entire company?

11 A. He -- yes.

12 Q. He replaced Mr. Barrett?

13 A. Who replaced --

14 Q. Mr. Clark.

15 A. -- Kerry Clark.

16 Q. So going back to that second
17 page -- let's finish this out.

18 In the last paragraph there, do
19 you see halfway down through the last paragraph,
20 it says, "The final DEA resolution may have
21 comparable outcome."

22 A. I see that.

23 Q. Read the next sentence for us.

24 A. "While the Legal and QRA functions

1 are responsible for helping us run our
2 businesses, the general managers are ultimately
3 responsible for the results."

4 Q. Continue on for the next sentence.

5 A. "General managers are accountable
6 for ensuring their units operate according to
7 quality, legal/regulatory standards. So general
8 managers need to proactively search for
9 potential quality, legal/regulatory issues. And
10 when they find them, they need to make them --
11 make the hard, right calls; not easy, wrong
12 calls."

13 Q. And was that something that you
14 recognized was going on at Cardinal; they were
15 making the easy wrong calls?

16 MR. PYSER: Object to form.

17 Vague.

18 A. In my time period at Cardinal and
19 the places that I worked, I would not agree with
20 that.

21 Q. Fair enough.

22 So here, according to Mr. Clark,
23 the general managers are responsible for the
24 operations, including legal and regulatory

1 compliance; is that right?

2 A. I'm sorry. I was lost in reading
3 this again.

4 Q. Sure.

5 A. I'll listen. Go ahead.

6 Q. The general managers are the ones
7 ultimately responsible, according to Mr. Clark,
8 for regulatory compliance?

9 A. Yes.

10 Q. You're coming into a role where
11 you're going to be over the regulatory
12 compliance department; is that correct?

13 A. Yes.

14 Q. Regulatory compliance affects a
15 lot of the issues Mr. Clark is talking about in
16 this e-mail; isn't that right?

17 A. Yes.

18 Q. And he's talking repeatedly about
19 a result-oriented culture leading to wrong
20 decisions; isn't that true?

21 MR. PYSER: Object to form.

22 Misstates evidence.

23 A. I think as a leader, he's talking
24 about -- when you have issues and problems at a

1 company, you call those out, you use words
2 around results orientation, certainly. I agree
3 with that. And to get better execution.

4 Q. All right. Let's go back to
5 Mr. Clark's words. "Perhaps our result-oriented
6 culture is leading to ill-advised or
7 short-sighted decisions."

8 He's not mincing words there, is
9 he?

10 A. I don't know. You'll have to ask
11 him. I don't --

12 Q. Well, that's what it says, right?

13 A. Oh, sure. You read that all the
14 time in corporations.

15 Q. How many times --

16 A. We talk about those things all the
17 time. It's a -- it's a constant and considered
18 phrase to use whether it's in a big event or
19 some small event.

20 Q. Okay.

21 A. So seeing this the first time in a
22 lot of years, I understand what you're asking,
23 and I would say, yes, Kerry is definitely
24 calling out these issues and making the

1 statements that we need to get better.

2 Q. You say the statement's used all
3 the time, Mr. Hartman. How many other times did
4 you hear it at Cardinal Health?

5 A. Oh, frequently we would talk about
6 it at meetings. You know, we're never happy
7 with our results.

8 Q. So you'd frequently talk about
9 that our result-oriented culture is leading to
10 ill-advised decisions?

11 MR. PYSER: Object to form.

12 A. That is not correct.

13 MR. PYSER: Object to form.

14 Misstates prior testimony.

15 Q. You just told the jury that you
16 hear that phrase all the time.

17 A. We talk about it, because as a
18 corporation -- I'm sorry. Go ahead.

19 MR. PYSER: Object to form.

20 Go ahead. You can answer the
21 question.

22 A. What I'm commenting on is that in
23 a corporation, in a public company, your role is
24 always to improve performance. You're trying to

1 provide the investment that our shareholders
2 have on us, that our employees have on us, and
3 you're constantly trying to improve.

4 So having been in roles like this
5 for much of my career, the conversations in any
6 meetings, no matter how good you are doing, no
7 matter how many great reports you got, you
8 always talk about better results, better
9 execution, better performance from the company
10 for our customers.

11 Q. And your testimony to the jury is
12 that we heard this verbiage, "result-oriented
13 culture is leading to ill-advised or
14 short-sighted decisions" regularly at Cardinal,
15 isn't it?

16 MR. PYSER: Object to form.

17 A. That is not -- that is not what my
18 testimony is. My testimony was results
19 orientation is -- the comment of ill-advised is
20 a comment from Kerry Clark. You'll have to ask
21 him. I read the -- I probably read the e-mail
22 at the time and continued to do my job.

23 Q. Your new job?

24 A. Correct.

1 Q. Which was fixing the regulatory
2 department because it just had three
3 distribution centers' licenses suspended and got
4 fined \$13.5 million, right?

5 MR. PYSER: Object to form.

6 A. I'm unaware of the 13.5 you're
7 referring to.

8 Q. So you don't know about the
9 company also paying a fine on top of losing
10 their license?

11 MR. PYSER: Object to form.

12 Q. Did anybody ever show you, when
13 you came into this position to fix this
14 department, the deal that Cardinal worked with
15 the Department of Justice and the immediate
16 suspension orders that were issued?

17 A. I might have. I don't recall
18 that.

19 Q. You don't ever recall reviewing
20 that?

21 A. The \$13.5 million settlement --
22 but to answer your question --

23 Q. Well, hold on.

24 A. -- when I came into the

1 department, as I began to understand where we
2 were -- and, yes, I was brand new into it, and I
3 am a leader of the organization that's well
4 trusted. What I came to understand is that we
5 felt we were doing the right things, according
6 to anti-diversion.

7 And my role, when I came in, was
8 to look at what now had happened with the
9 immediate suspensions because the DEA had
10 changed course on us.

11 Q. Changed course when, Mr. Hartman?

12 A. I -- you know, I -- the e-mails
13 that I've seen is at some point in 2007, it
14 seems there was some e-mails that came about how
15 suspicious order monitoring was supposed to take
16 place, and that is what I came in to do, is to
17 then understand that, to expand our department,
18 to improve our processes from where we were, and
19 to get our licenses back.

20 Q. We'll get to expanding the
21 department in just a moment. You're saying in
22 2007, this -- there was some sort of change.
23 Did you look at anybody else's deposition in
24 this matter?

1 A. No.

2 Q. Do you know -- so do you know who
3 Ms. Norris is, Jennifer Norris?

4 A. Yes. Yeah, I know Jennifer.

5 Q. She's a lawyer, right?

6 A. Yes.

7 Q. With Cardinal Health?

8 A. Yes, that's correct.

9 Q. Do you know how she testified as
10 to what the statutory obligation was? She was
11 put up as a 30(b) --

12 A. I think you're going to tell me.

13 Q. Hold on.

14 She was put up as a 30(b)
15 designee, meaning to speak on behalf of the
16 company, and do you know what Cardinal said what
17 their statutory -- or their regulatory
18 obligation was?

19 MR. PYSER: Hold on before you
20 answer. Do not reveal any of the
21 content of communications between you
22 and counsel. If you know otherwise, you
23 can answer the question.

24 A. I'm sorry. The question -- I --

1 you asked me if I know what she said.

2 Q. I want to know if you know what
3 Cardinal's position was, what the regulatory
4 requirements were, as it related to them.

5 A. I don't know what they testified
6 to.

7 Q. They never shared that with you?

8 A. No.

9 Q. Even back then in 2007 when you
10 took on this position in regulatory?

11 A. Oh, I don't know. They might
12 have. It's ten years ago. I don't recall what
13 those conversations were. My mind was single
14 focused on, we have immediate suspensions. We
15 have three DCs offline. What do we need to do
16 to work with the DEA to get our processes and
17 systems to where it's agreeable to them to get
18 our -- to get our licenses lifted so we could
19 get our DCs back online and service our
20 customers. And that's what my -- that's what my
21 focus was.

22 Q. And certainly you then took on the
23 duty to look at those three DCs -- when we say
24 "DCs," for the jury's benefit we're talking

1 about distribution centers, right?

2 A. Correct.

3 Q. You took the opportunity to look
4 what was going on at those three DCs to
5 determine what needed to be fixed, right? How
6 are you going to fix a problem if you don't know
7 what the problem is, Mr. Hartman?

8 MR. PYSER: Object to form.

9 A. To your point, I'm certain we
10 looked hard at that. What we spent our time on
11 was what was the DEA demanding of us to meet
12 their criteria today at that time, for -- at
13 that time -- anti-diversion, and that's what we
14 spent all of our time to bring those processes
15 and systems up.

16 Q. But Mr. Hartman, what I want to
17 know --

18 A. Yes.

19 Q. I think what the jury would want
20 to know, is when Mr. Hartman come into this new
21 role, did Mr. Hartman take the time, not we, not
22 this royal "we." Did Mr. Hartman take the time
23 to look at what the issues were going on at
24 those three distribution centers that had just

1 received a humongous fine and had their license
2 stripped from them?

3 A. I'm sure I --

4 MR. PYSER: Object to form.

5 A. I don't recall the time I spent on
6 that, on each DC. I'm sure I did. It was
7 necessary to know who the players were, what
8 impact it was to us, what operational concerns
9 we had to adjust in order to deliver and service
10 customers in that area from other distribution
11 centers. And that's what we did.

12 And when we say "we," yeah, I'm
13 the leader, and my role is to understand what's
14 the strategy to go forward for us to get these
15 license suspensions lifted appropriately by the
16 DEA and we meet the conditions that they -- that
17 they have. So that -- that's what I did.

18 And so the "we," to me, is always
19 going to be there for you, sir. It's the -- you
20 know, I had subject matter experts that I relied
21 on to work with me on this.

22 Q. Who is your supply chain integrity
23 subject matter expert?

24 A. Well, it would be -- the two

1 leaders were Michael Moné and Steve Reardon.

2 Q. So they were the subject matter
3 experts in this area; is that your testimony?

4 A. Yes.

5 Q. Okay.

6 A. As the leaders of those groups.

7 Q. Well, you were the ultimate leader
8 of the group, right?

9 A. As I came into role, yes.

10 Q. Okay. All right. Let's go to
11 P14230.

12 - - -

13 (Cardinal-Hartman Exhibit 3 marked.)

14 - - -

15 BY MR. FULLER:

16 Q. Let's take a look, Mr. Hartman,
17 and see what actually was going on at those
18 three distribution centers. And you have no
19 recollection specifically of what was
20 transpiring at those distribution centers at the
21 time you came in; is that right?

22 A. I didn't say no recollection. You
23 asked me how much time I had spent on them, I
24 thought.

1 Q. No, sir. I asked if you had dug
2 down and looked at what was going on.

3 A. Certainly I looked at what was
4 going on, but ...

5 Q. Then tell the jury what was going
6 on at the three distribution centers that got
7 their licenses suspended.

8 A. Again, this was after -- this was
9 before my time of stepping into role, and I did
10 not have input or any involvement in the
11 regulatory affairs as I believe this happens.
12 So with what you put in front of me, this -- is
13 this the immediate suspension orders? What are
14 we looking at?

15 Q. Sir, this is the -- not only the
16 immediate suspension orders, but also the
17 settlement and release agreement that was
18 entered by your company, Cardinal, during the
19 time you were filling this role, during the time
20 that you were over the regulatory division.

21 MR. PYSER: Object to form.

22 Q. And these immediate suspension
23 orders that are attached, one is from November,
24 right before you got there. Two are from

1 December. Another one from January. And you
2 were there in January, right? You were in the
3 role?

4 A. That -- that was Houston, yes.

5 Q. And were you involved in the
6 decision by the Houston distribution center to
7 voluntarily give up its license and stop
8 shipping controlled substances? Because by the
9 time -- you're there in the driver's seat,
10 right?

11 A. Working on our anti-diversion
12 processes and practices. So that decision, I
13 might have been in the room to listen in. I
14 don't know that I was in any way -- that I -- I
15 certainly wasn't the one that made that decision
16 around Houston.

17 Q. Were you involved in that decision
18 around Houston?

19 A. I don't recall.

20 Q. Okay.

21 A. I mean, I recall certainly Houston
22 and the suspension. I'm sure I was in a meeting
23 or two, but ...

24 Q. And you know that ultimately they

1 voluntarily gave up --

2 A. I do know that.

3 Q. -- their license to deliver and
4 distribute controlled substances based on the
5 conduct that the government found going on
6 there, right?

7 MR. PYSER: Object to form.

8 Misstates evidence.

9 A. Yes.

10 Q. Okay. So let's turn to page 16,
11 and I'll tell you, Mr. Hartman, there may be
12 page numbers on the bottom, but if you look at
13 the upper left-hand -- or excuse me -- upper
14 right-hand corner, as you will recollect, I
15 called out 4230?

16 A. Yes.

17 Q. So that's the number we go by.
18 And then it will be point whatever page number
19 it is.

20 A. Okay.

21 Q. So if you go to .16, that will be
22 page 16 that I'm referring to. Okay?

23 And all the documents will be
24 marked the same way, just for ease for -- you

1 and I can communicate back and forth. Okay?

2 A. Okay.

3 Q. All right. This is going to be
4 Plaintiff's Number 3, I believe, right? Yeah.

5 So this is Auburn, Washington.
6 That is one of the facilities that when you came
7 in, was having its license suspended; is that
8 correct?

9 A. Yes.

10 Q. This is one of the facilities that
11 you were tasked with getting its license back?

12 A. Yes.

13 Q. Do you know when you obtained the
14 license back, when the DEA issues were resolved?

15 A. My recollection is November of
16 2008, but I'm not sure if that's accurate.

17 Q. This is an Order to Show Cause and
18 Immediate Suspension of Registration.

19 Do you see that?

20 A. Yes.

21 Q. And it was issued when?

22 A. November 28, 2007.

23 Q. And by that time, you were already
24 in talks with Cardinal to come back into this

1 position, correct?

2 A. I don't think so. I think it was
3 more December before I got a call from Cardinal
4 that they wanted to talk to me about this role.
5 I don't think it was in November.

6 Q. Now, we know that the date of your
7 announcement was the 19th of December?

8 A. Correct.

9 Q. So it would have to have been
10 before then; is that fair?

11 A. It was, yes.

12 Q. Because I'm assuming they didn't
13 announce you took the job before they talked to
14 you about taking the job?

15 A. It was pretty -- it's pretty close
16 to the 19th. I don't recall the exact dates,
17 but it wasn't -- you know, it was in the
18 December time frame, and I think it was closer
19 to my actual announcement date. Again, I don't
20 recall the exact dates.

21 Q. If you go to, actually, page 17
22 now, paragraph B.

23 Do you see that there?

24 A. Yes.

1 Q. And a little over halfway through
2 the paragraph, do you see "Specifically,
3 Respondent distributed ..."?

4 A. Yes.

5 Q. Can you read that all the way to
6 the end of that paragraph.

7 A. "Specifically, Respondent
8 distributed in excess of 600,000 dosage units of
9 hydrocodone to Horen's Drugstore from March 2007
10 through September 2007, including over 116,000
11 dosage units in July, over 129,000 dosage units
12 in August, and over 122,000 dosage units in
13 September."

14 Q. That's excessive numbers, isn't
15 it? Over 100,000 units to a single drugstore
16 per month?

17 MR. PYSER: Object to form.

18 A. Yes, I think that's -- that's the
19 issue, as I see it, isn't it? We're looking at
20 one raw set of data, and the issue here is that
21 we've got a system that's now been developed
22 with approval of drugs to DEA providing the
23 increase of ingredients for the quotas to go up
24 and up, and then us fulfilling prescriptions to

1 licensed pharmacies with prescriptions from
2 licensed doctors.

3 So when you ask me that, as we
4 looked at this, there's lots of data that goes
5 into it, and I don't have the answers to it. I
6 relied on my experts to help me understand it
7 better as we built systems out and put our
8 strategies in place.

9 Q. And that's Mr. Moné and
10 Mr. Reardon? Those are the experts you relied
11 on?

12 A. In the anti-diversion space,
13 particularly in this question, would be
14 Michael Moné.

15 Q. Okay. And you talk about licensed
16 doctors and pharmacies just filling
17 prescriptions. You're aware that your company
18 was filling a ton of Internet pharmacies that
19 didn't have legitimate doctor prescriptions,
20 correct?

21 MR. PYSER: Object to form.
22 Misstates testimony and misstates
23 evidence.

24 A. Yes. There were some Internet

1 pharmacies that we had to deal with.

2 Q. And the problem was, they weren't
3 legitimate doctor prescriptions, correct?

4 MR. PYSER: Object to form.

5 A. I don't know that.

6 Q. And you also know that the DEA
7 came to Cardinal and met with Cardinal in 2005
8 and explained the issue and the concern with the
9 Internet pharmacies?

10 A. No knowledge of that.

11 Q. No one ever shared that with you?

12 A. Not that I recall.

13 Q. How about the meetings that
14 Cardinal had with the DEA and the presentations
15 that were given to Cardinal in 2006 related to
16 this issue?

17 A. Again, prior to my time. I wasn't
18 involved.

19 Q. No one ever shared that with you?

20 A. Not that I recall.

21 Q. So when you came into this
22 position, no one ever shared all the information
23 the DEA had provided to Cardinal related to
24 anti-diversion; is that your testimony?

1 MR. PYSER: Object to form.

2 A. My testimony is that I don't
3 recall, and in meetings that I was at corporate
4 headquarters in my transformation role, I was
5 not directly involved in the day-to-day business
6 of our operating units.

7 Q. I'm asking if you were involved in
8 the day-to-day operation of anti-diversion.
9 That was your new department, right?

10 A. Yes.

11 Q. And they didn't provide you any of
12 the information, that you can recall, the DEA
13 had provided to Cardinal for years related to
14 Internet pharmacies and their obligations, did
15 they?

16 A. I don't recall what we -- we
17 probably -- we could have talked about it. I
18 don't -- I just don't recall it. It's ten years
19 ago.

20 Q. This is not -- it's nothing that
21 sticks out in your mind, right?

22 A. It's not where I spent my time. I
23 didn't look back. I spent my time looking
24 forward to solve our problem.

1 Q. And the problem was Washington,
2 Auburn, at least one of the problems, correct?

3 A. One of them, yes.

4 Q. And we see right here that over
5 600,000 dosage units are going to -- how did you
6 pronounce it -- Horon's Drugstore?

7 A. Horen's, I believe.

8 Q. Do you know today if that was an
9 Internet pharmacy?

10 A. I don't recall.

11 Q. Is 600,000 dosage units for that
12 time frame reasonable, March through September?

13 MR. PYSER: Object to form.

14 A. Again, there's lots of factors
15 that have to be taken into place during my time
16 period that we looked at as we built our system
17 and determined what were problems and what were
18 issues.

19 Q. And that's the problem, right? Is
20 that the earlier system didn't bring this to
21 anyone's attention, because certainly you would
22 agree if this was -- had been brought to
23 someone's attention that Cardinal wouldn't have
24 stood for this?

1 MR. PYSER: Object to form. Pure
2 speculation. Incomplete hypothetical.

3 MR. FULLER: Okay. Counsel, just
4 "object to form" is fine. That's what
5 the deposition protocol requires. If
6 you are speaking objections, the Court
7 says that's completely inappropriate.

8 Thank you.

9 BY MR. FULLER:

10 Q. You can answer the question.

11 A. Would you give it to me again?

12 Q. Yes, sir.

13 So we know that the DEA found,
14 from Cardinal's own documents, that they were
15 delivering over 600,000 dosage units of
16 hydrocodone to this one drugstore in Washington,
17 right, through March -- through September of
18 '07.

19 MR. PYSER: Object to form.

20 Q. Certainly if that had been called
21 to Cardinal's attention, they would not have
22 allowed that to continue, correct?

23 MR. PYSER: Object to form.

24 A. I think one of the points here is

1 that if I understood some of the prior system,
2 these were being reported to the DEA through the
3 reporting that they did, and the DEA had the
4 information. In the new world with DEA as to
5 how they were coming at anti-diversion with the
6 distributors, we put in a process to look at any
7 of these types of volumes in consideration of
8 other criteria that we used under Michael's
9 team.

10 Q. Okay.

11 A. So to answer your question, I
12 would need more information about them.

13 Q. And you say "about them." Are you
14 talking about Horen's drugstore?

15 A. That's the one you asked me about,
16 right?

17 Q. Yes, sir.

18 So you need more information to
19 justify whether 600,000 dosage units, over
20 100,000 for each month, is reasonable or not?
21 Is that what you're telling the jury?

22 MR. PYSER: Object to form.

23 A. It's prior to my time.

24 Q. No, no, no. You said you needed

1 more information. You can't determine --
2 again --

3 A. I'm saying that within our
4 process, once I stepped into role, we put into
5 practice our anti-diversion practices, which the
6 DEA approved of.

7 Q. The DEA gave approval, a stamp of
8 approval to your anti-diversion processes --

9 A. We --

10 Q. -- is that what you're telling the
11 jury?

12 A. In -- well, in my understanding of
13 what happened, we got our licenses, the
14 suspended licenses, back so that we could
15 operate those distribution centers. They
16 investigated our system, and we continued to
17 operate that same system that we had shown them,
18 everything that we were doing since I came into
19 the role and the practices and procedures that
20 we put into place.

21 Q. And that system ended up getting
22 them another suspension in 2013 down in Florida,
23 correct?

24 MR. PYSER: Object.

1 A. My understanding.

2 Q. And I know that was after you
3 left, right?

4 A. Correct.

5 Q. You don't know how that system
6 that you put in place was being operated after
7 you left, do you?

8 A. I don't.

9 Q. Okay. Now, you said earlier DEA
10 changed its course in 2007, but then you also
11 just testified that you weren't necessarily
12 aware of the meetings the DEA had and the
13 information they provided to Cardinal?

14 A. I was not aware of those meetings
15 in the earlier dates that you stated.

16 Q. So what meetings were you aware
17 of?

18 A. When I stepped into the role going
19 forward -- and if I was aware of it, I've
20 forgotten. It's ten years later, and I suspect,
21 to your point, you know, somebody probably
22 talked to me about it. We didn't -- I didn't
23 spend a whole lot of time looking back. I spent
24 all of our time going forward to solve our

1 issue, to get our licenses back, and to serve
2 our customers.

3 Q. But you looked at Washington,
4 Florida, when they got the immediate suspension
5 orders, right?

6 A. After I -- after I got into role,
7 at some point, I'm sure I did.

8 Q. Well, let's turn to page 20.

9 Does this appear to be another
10 immediate suspension order?

11 A. It does.

12 Q. And for which Cardinal
13 distribution center; can you tell? Cardinal
14 Health of Lakeland, Florida?

15 A. Yes.

16 Q. And it was issued December 5,
17 2007; is that right?

18 A. Yes.

19 Q. Now, are you aware of the extreme
20 amount of pills being distributed in Florida
21 during this time frame related to the Internet
22 pharmacies?

23 MR. PYSER: Object to form.

24 A. Again, it was prior to me stepping

1 into role.

2 Q. I got that. You made that clear.

3 But you're in there to fix this
4 problem, right?

5 A. That's correct.

6 Q. And so you got to look and see
7 what the problem is you're trying to fix, don't
8 you?

9 A. Yes, we did.

10 Q. Okay. So do you know if today is
11 the first day you're seeing this immediate
12 suspension order or not?

13 A. Oh, I'm sure it's not. I'm
14 certain I looked at it. Again, we didn't -- I
15 didn't spend a lot of time on it.

16 Q. You say you're sure you're not,
17 but you don't have any independent recollection
18 of ever seeing this until I showed it to you
19 today, do you?

20 A. I don't remember dates and times
21 in December as I came into role. They probably
22 put this in front of me, and as I said, I didn't
23 spend time on this. I spent time on trying to
24 understand, what do we need to do and how do we

1 move forward.

2 Q. Right. Because the system that
3 was in place obviously was broke, and you got
4 sucked in to fix it, correct?

5 MR. PYSER: Object to form.

6 Q. That was your job, to fix their
7 system; isn't it?

8 A. As I got into role --

9 Q. Was your job to fix their system
10 or not?

11 MR. PYSER: Counsel, let him
12 finish his answers after you ask the
13 question.

14 A. My job was to take our system,
15 expand it and improve in light of these
16 suspensions and knowledge of what do we need to
17 do to get our licenses back.

18 Q. Fair enough.

19 So explain to the jury what that
20 system was back in 2007.

21 A. I wasn't aware of -- I did not
22 participate in regulatory affairs.

23 Q. Sir, you just told the jury that
24 your job was to expand the system you had. How

1 can you expand the system if you don't know what
2 it is?

3 A. Because I had two team members on
4 board. They had teams now. Michael had another
5 team with anti-diversion, which was pretty new,
6 and Steve Reardon had the original --

7 Q. That was just created, right?

8 MR. PYSER: Counsel, let him
9 finish his answer before you ask another
10 question.

11 Q. It was just created, wasn't it?

12 A. I think Michael came into role
13 just prior to myself.

14 Q. And you're the leader of this
15 division?

16 A. Yes.

17 Q. And your testimony to the jury is
18 that you didn't bother to look back at the prior
19 systems in place, correct?

20 MR. PYSER: Objection. Misstates
21 testimony.

22 Q. You didn't look back. You only
23 looked forward. We're going to expand those
24 systems. We're not going to look at them to see

1 what they were. At least I'm not, as

2 Mr. Hartman?

3 MR. PYSER: Object to form.

4 Misstates testimony.

5 A. I didn't -- I think my comment
6 was, I didn't spend a lot of time looking back.
7 I literally jumped into role. Steve Reardon had
8 the original anti-diversion practices, the
9 reporting that took place under him.

10 Michael Moné came in for us to build out and
11 respond to this criteria of the DEA now.

12 So as I got into role, we spent
13 all of our time there while Steve Reardon
14 continued to operate our practices at that time.
15 So to tell you I'm some expert on it, I'm not.
16 I didn't -- I didn't try to be an expert on it.
17 I looked at, what do we need to do to go
18 forward.

19 Q. Okay.

20 A. In the course of all that, I'm
21 sure the folks talked to me. We had meetings,
22 consultations around it, discussions, but our
23 focus was solely on, what are we going to do and
24 how do we immediately get after this?

1 Q. So let's first look at -- well,
2 now let's move on from Washington to Florida.

3 And if you look at Number 2 there
4 on the immediate suspension order.

5 Do you see that?

6 A. I see it.

7 Q. Do you see where it says "From
8 August 2005 to October 2007 ..."

9 Can you continue.

10 A. "... Respondent distributed over
11 8,000,000 dosage units of combination
12 hydrocodone products to customers that it knew
13 or should have known were diverting hydrocodone
14 into the other -- into other than legitimate
15 medical, scientific, and industrial channels."

16 Q. Did you do anything to determine
17 whether that was an accurate statement or not?

18 Did you do anything to verify
19 whether the DEA was wrong?

20 MR. PYSER: Object to form.

21 A. I spent no time on that.

22 Q. You didn't worry about that?

23 A. I worried about what we had been
24 suspended for and what we needed to do to have

1 the system in place that Cardinal would be able
2 to serve our customers and we would be able to
3 meet the requirements of DEA.

4 Q. So this is what you were suspended
5 for --

6 A. I understand you.

7 Q. -- dumping 8 million dosage units
8 to drugstores and pharmacies that Cardinal knew
9 or should have known were being diverted?

10 MR. PYSER: Object to form.

11 Q. Right? That's what it says.

12 A. That's the accusation.

13 Q. Okay. Let's go to page 30 of the
14 document. I want to take a quick look at the
15 Texas distribution, the Texas -- Stafford,
16 Texas, show cause order.

17 Did you get there, Mr. Hartman?

18 A. Yes.

19 Q. Okay. And this is a show cause
20 order that we mentioned earlier for Texas, isn't
21 that right? The Stafford distribution center?

22 A. Yes.

23 Q. And when was it issued?

24 A. January 30, 2008.

1 Q. This is during your time frame
2 heading up this division; you're in this role
3 full time now, right?

4 A. I had been there six weeks.

5 Q. Exactly. So let's go down --
6 let's see. Let's go down to page 31. On
7 paragraph 7, this is from January of 2007
8 through September 11, 2007. "Registrant
9 distributed approximately 1.385" -- well, excuse
10 me. "1,381,500 dosage units of hydrocodone to
11 Richmond Pharmacy, or approximately 160 [sic]
12 dosage units each month."

13 Does that cause you any concern,
14 that a distribution center under your watch was
15 making those type of distributions to a single
16 pharmacy?

17 MR. PYSER: Object to form.

18 A. What I spent my time on was not
19 trying to refute or change or fight with the DEA
20 about these accusations.

21 Q. Yes, sir.

22 A. I spent all of my time on, what do
23 we need to do to improve our system and
24 practices and training and anything else we

1 needed to do in order to get our licenses back,
2 serve our customers, and do what the DEA said we
3 needed to do.

4 Q. And you made that abundantly
5 clear. But my question is, does this type of
6 distribution pattern cause you any concern as
7 the head of the regulatory department?

8 A. I didn't spend time looking at it.
9 I had a team that was now investigating. With
10 our new practices, we were getting ready to
11 put -- as we got them in place, and we -- it
12 took some time. It wasn't that we had it day
13 one. To look at these kind of issues and what
14 were the practices, what are the issues, what
15 are -- what is being said here, what is our
16 performance around this.

17 I didn't spend time on trying to
18 figure out what's right or what went wrong. I
19 spent my time on the process and the -- and the
20 system, using my subject matter experts to look
21 at these issues.

22 Q. Again, my question, you're in this
23 role for approximately three years, right? End
24 of 2007 to 2010?

1 A. Yeah, yeah.

2 Q. You were the head of
3 anti-diversion and supply chain integrity,
4 correct?

5 A. Yes.

6 Q. I want to know as the leader of
7 that group, does this type of distribution cause
8 you any concern? I'm asking whether dumping
9 1.3 million dosage units in a short period of
10 time into one pharmacy is problematic?

11 A. I see. I take exception to your
12 word "dumping." We are --

13 Q. Shipping, we'll call it.

14 A. We are a distributor responding to
15 legitimate orders at a pharmacy who is serving
16 prescriptions written by licensed DEA doctors.
17 So when you say "dumping," I don't agree with
18 that.

19 Does it cause me concern? Once we
20 built our system, as I got there, in my time
21 period, and we looked at facilities, these kind
22 of issues could be problematic, or they might
23 not be given the data that we used.

24 MR. PYSER: Register an objection

1 to form on there.

2 Just give me a chance to interject
3 objections before you answer.

4 Q. So, again, my question is, does
5 this type of distribution cause you concern or
6 not? Either it does or it doesn't.

7 MR. PYSER: Object to form. Asked
8 and answered.

9 Q. That's a yes-or-no question.

10 A. It's not a yes-or-no answer.

11 Q. Clearly -- and I'm thinking that
12 the answer may be written on the wall behind me
13 because you keep giving the same one.

14 MR. PYSER: Object to form.

15 Argumentative.

16 Q. So let's go on.

17 Let's roll down this paragraph.

18 It says, "Registrant distributed 66,000 dosage
19 units of hydrocodone to Richmond on September 4,
20 2007."

21 Do you see that there?

22 A. Yes.

23 Q. Continue from there for me,
24 please.

1 A. "6,000 dosage units on
2 September 5, 2007; 12,000 dosage units on
3 September 6, 2007; 18,000 dosage units on
4 September 7, 2007; 48,000 dosage units on
5 September 10, 2007."

6 Q. That's good enough.
7
8 Does that not cause you any
9 concern, tens of thousand dosage units day after
10 day?

11 A. We have to -- we have to look at
12 the pharmacies, their practices, where they're
13 located.

14 Q. Absolutely. And do you think
15 there's any legitimate medical need for tens of
16 thousands of pills day after day to be dumped
17 into Texas?

18 A. I wasn't --

19 MR. PYSER: Counsel, again, let
20 the witness finish his answer. I don't
21 think he was done before you interjected
22 with another question.

23 Q. Again, do you think that there's
24 any medical legitimate need to dump tens of
25 thousands of pills on the 4th, 5th, 6th, and 7th

1 and 10th of September? I mean a period of five
2 days.

3 A. Again, "dump" is not a word that I
4 would use.

5 Q. Distribute.

6 A. Distributing to licensed
7 pharmacies where they're serving licensed
8 doctors, writing prescriptions, is what we
9 responded to. And as I -- and, again, as I came
10 into role, I didn't spend my time trying to
11 figure out each of these particular instances.
12 I spent my entire time on the strategy and how
13 we respond to DEA and solve our issues there and
14 improve our system with DEA.

15 Q. So once you put your system in
16 place, if this type of distribution happened,
17 that would be okay with Mr. Hartman?

18 MR. PYSER: Object to form.

19 Q. Right?

20 MR. PYSER: Object to form. Calls
21 for speculation.

22 A. What would have been okay is if
23 our system said that those -- that the
24 distribution of those products served the

1 purpose without being called as an order of
2 interest, then, yes, I would have been okay.

3 Q. And for that, we would need to see
4 a due diligence file to substantiate the medical
5 need for this type of dosage, correct?

6 MR. PYSER: Object to form.

7 A. We would have had our processes
8 working to look at every order that comes in and
9 determining where it fits within our processes
10 and practices and then making a call on that
11 order and that pharmacy.

12 Q. So these processes that you're
13 talking about, you don't know what they are back
14 in 2007, right? It was before your time?

15 A. Vaguely -- I'm vaguely familiar
16 because, obviously, I -- you know, we've talked
17 about it. I recall certainly at the time we
18 must -- we talked about them. Steve Reardon was
19 still operating them, but I was not intimately
20 involved with them. I'm not an expert on them.

21 Q. When did you become intimately
22 involved with them? Ever?

23 A. Not the prior ones.

24 Q. What about the new ones?

1 A. The new ones, I would say I was
2 involved with. I think I knew them well. I
3 never tried to be the subject matter expert. I
4 relied on my team of people that we put in place
5 for the DEA conditions that had been placed on
6 us in order to meet those needs and to be within
7 their purview operating the way they felt we
8 should. And we did that.

9 Q. And when you came in to Cardinal
10 after being there over a decade, you knew that
11 the regulatory department was understaffed and
12 underfunded, didn't you?

13 MR. PYSER: Object to form.

14 A. I don't recall how I felt about
15 it. You know, we operated with them in our --
16 in our space, they gave us good advice and
17 counsel, and it was a department that I would --
18 I've certainly worked with from time to time,
19 but I don't recall any specific instances of
20 what we were doing there -- I -- and any issues
21 that we had.

22 Q. Well, when you came into the
23 division, is it not true that you created a
24 supply chain integrity department that

1 Michael Moné headed up and had to push to get
2 additional staff for him?

3 A. Oh, sure. Yes.

4 Q. You actually over-doubled the
5 staff working on regulatory issues, didn't you?

6 A. Oh, we -- in response to the DEA
7 conditions, which were now placed upon us and
8 then they put the immediate suspension orders
9 and closed our DCs or suspended the licenses,
10 yes, absolutely. Sure I did.

11 Q. The DEA conditions that were put
12 upon us, what DEA conditions are you referring
13 to?

14 A. The suspicious order monitoring,
15 their conditions of how you report those now.
16 That changed.

17 Q. That changed?

18 So it's your belief that the
19 controlled substance suspicious order monitoring
20 requirement and reporting it to the DEA wasn't
21 always there?

22 MR. PYSER: Object to form.

23 That's not what he said. Misstates
24 prior testimony.

1 A. Not in the --

2 THE WITNESS: Yeah. Thank you.

3 A. Not in the form of when I got into
4 role as to what we were now expected to do.
5 That's what I understood, and that's what we
6 worked diligently on.

7 Q. Well, what was the difference?
8 Tell the jury. Explain to the jury what the
9 difference was, if you know.

10 A. I -- well, I'm no expert, as I
11 told you. I didn't spend any time going back.
12 But what I am aware of is that we filled out
13 forms and reports every month that went to the
14 DEA for years. Those went to the DEA. They
15 accumulated them. And then they were the
16 holders of that information.

17 That's prior to my time. So,
18 again, I'm not an expert on it. I then moved
19 into my role, and we set off to make sure that
20 our suspicious order monitoring system was
21 developed with more IT and analytics involved,
22 that our suspicious order reporting then
23 responded to that system, and we built out our
24 Know Your Customer training to involve our --

1 and give advice to our field teams as to the
2 help and support that we needed now.

3 Q. So, admittedly, you're no expert
4 on diversion or anti-diversion or supply chain
5 integrity, right?

6 MR. PYSER: Object to form.

7 A. I think I'm good at it, but I
8 claim to be no expert.

9 MR. PYSER: Counsel, we've been
10 going about an hour and 15 minutes.

11 Let's take a break.

12 MR. FULLER: Fair enough.

13 THE VIDEOGRAPHER: The time is now
14 10:25. Going off the record.

15 (Recess taken.)

16 THE VIDEOGRAPHER: Okay. The time
17 is now 10:53. Back on the record.

18 BY MR. FULLER:

19 Q. Mr. Hartman, we were talking when
20 we took the break about the regulatory
21 compliance and what was required of Cardinal
22 Health.

23 Do you recall that?

24 A. Yes.

1 Q. Okay. And are you familiar with
2 what the regulations require for Cardinal Health
3 as it relates to anti-diversion under the
4 Controlled Substances Act?

5 A. I think so.

6 Q. Well, explain to the jury what the
7 statutory obligations are of Cardinal under the
8 Controlled Substances Act, as you knew them,
9 during your time frame at Cardinal?

10 MR. PYSER: Object to form. Calls
11 for a legal conclusion.

12 MR. FULLER: Well, hold on. Let's
13 address that. Counsel's saying it calls
14 for a legal conclusion.

15 BY MR. FULLER:

16 Q. You were -- your job was to head
17 up anti-diversion and regulatory compliance,
18 right?

19 A. Yes.

20 Q. So in order for you to do your
21 job, you had to know what the Controlled
22 Substances Act and the relevant regulations
23 require, didn't you?

24 A. Yes.

1 Q. I mean, you can't do your job if
2 you don't know what you have to comply with, can
3 you?

4 A. That's right.

5 Q. Not very well at least, right?

6 A. I would say that's right.

7 Q. Okay. So explain to the jury what
8 your understanding was of Cardinal's obligations
9 under the Controlled Substances Act?

10 MR. PYSER: Same objection.

11 A. We were required to have a
12 suspicious order monitoring system, and we were
13 to have reported suspicious orders to the DEA.
14 I don't think that's a quote of the regulation.

15 Q. All right. So you're saying your
16 obligations under the Controlled Substances Act
17 was suspicious order monitoring system, that one
18 had to be created, implemented, and utilized by
19 Cardinal during this time frame, correct?

20 A. Cardinal was to have -- as a
21 distributor, to be licensed by the DEA, had to
22 have a suspicious order monitoring system.

23 Q. Now, do you know when you came
24 into your position in the end of 2007, December,

1 correct?

2 A. That's right.

3 Q. Whether that requirement was
4 already in existence for Cardinal?

5 A. We took what Cardinal had and
6 continued to expand and build upon it.

7 Q. That's not my question. So I want
8 you to listen to my question.

9 I want to know, and I want the
10 jury to hear, whether you believe this
11 obligation was already in existence for Cardinal
12 prior to you taking over in December of 2007.
13 Either it was in existence or it wasn't in
14 existence.

15 A. When I stepped into role, Cardinal
16 had a suspicious order monitoring system which
17 we built on and expanded under my -- under my
18 tenure.

19 Q. Mr. Hartman, I'll ask the question
20 again, and I ask that you listen to my question.
21 Okay?

22 I'm asking you, was the suspicious
23 order monitoring requirement already in place by
24 the government upon Cardinal. I didn't ask you

1 if Cardinal had a suspicious order monitoring
2 system. We can agree those are two separate
3 questions, right?

4 MR. PYSER: Object to form.

5 Q. One, was it a regulation in place
6 that Cardinal had to comply with; and, two, the
7 answer you're giving is, did Cardinal have a
8 suspicious order monitoring system. We'll get
9 to that point, I promise.

10 So, again, my question is, do you
11 understand whether this obligation to have and
12 operate a suspicious order monitoring system was
13 in place when you came into the job in December
14 of 2007?

15 MR. PYSER: Object to form.

16 A. As I stepped into role, my
17 colleagues felt that we had that system in place
18 that met the obligation, and then I worked to
19 build on and expand it based on the DEA's
20 criteria, new criteria of how we needed to
21 improve it.

22 Q. So Mr. Hartman, again, maybe my
23 question wasn't clear. I didn't ask you what
24 Cardinal had in place and didn't have in place.

1 Okay? Are you understanding me right now?

2 A. Understanding.

3 Q. Okay. I'm asking you, was this
4 regulation actually in place and required of
5 Cardinal when you came in in December of 2007,
6 or was this something enacted by the government
7 after that point?

8 A. Is that the same question you've
9 been asking me?

10 Q. Yes, sir.

11 A. So you're asking me if the
12 Controlled Substances Act was in place?

13 Q. I'm asking you if that
14 regulation -- if that requirement, which you
15 testified to just now, was already in place when
16 you came into the position in December of 2007,
17 or was it a new requirement that was passed
18 sometime after you came into that position?

19 A. The Controlled Substances Act had
20 been in place for a long time.

21 Q. Do you know how long? Because you
22 testified earlier things had changed, and I want
23 to try to sort this out.

24 A. Back in the '70s, I believe, is

1 when it was first passed.

2 Q. So you believe this requirement
3 was in place since the 1970s?

4 A. I think so.

5 Q. Now, you mentioned operating a
6 system and then you mentioned another
7 requirement. What was that other requirement
8 that you believe was in place when you came into
9 this role?

10 A. To report suspicious orders to the
11 DEA.

12 Q. And you and I can agree, can we
13 not, those are two different requirements, one
14 is to have a system in place and operate that
15 system; the other is actually to report things,
16 suspicious orders, to the DEA, right?

17 A. I agree with that.

18 Q. Okay. Now, this report suspicious
19 orders to the DEA, when did -- was this
20 requirement already in place when you came into
21 the role, or was this something new after you
22 came into the role?

23 A. I'm not clear on whether you're
24 asking me if the Controlled Substances Act was

1 in place, or if you're asking me specifically
2 about Cardinal. Which are you asking me?

3 Q. I'm asking whether the regulation
4 was in place.

5 A. The regulation was in place.

6 Q. And do you know how long that
7 regulation had been in place?

8 A. I believe it's all part of the
9 original Controlled Substances Act, so I presume
10 from its inception.

11 Q. So 1970s again, right?

12 A. Yes.

13 Q. So you believe Cardinal had the
14 obligation to have a suspicious order monitoring
15 system and, therefore, to report suspicious
16 orders to the DEA since the 1970s, right?

17 MR. PYSER: Object to form. Calls
18 for a legal conclusion.

19 A. Yes.

20 Q. Okay. Now -- sorry.

21 Do you know whether there was
22 any -- well, let me ask, just to make sure we're
23 complete. Were there any other requirements
24 that you're aware of related to the Controlled

1 Substances Act or anything else related to
2 anti-diversion?

3 A. Related to the Controlled
4 Substances Act, the regulation. Those were the
5 two elements of it --

6 Q. Okay.

7 A. -- as I understand it.

8 Q. Now, do you agree or disagree that
9 there was a U.S. Code that required Cardinal to
10 maintain effective controls against diversion of
11 particular controlled substances into other than
12 legitimate medical, scientific, and industrial
13 channels?

14 A. It sounds right. I'd need to see
15 the document, but I think you're reading from
16 it.

17 Q. Well, we're going to show you the
18 document. Don't worry about that.

19 4916, please.

20 Have you ever looked at the
21 Controlled Substances Act, Mr. Hartman?

22 A. Yes.

23 Q. When did you do that?

24 A. I don't recall when, but as I

1 stepped into the role, I probably would have
2 looked at this act so -- to see what it was that
3 we were supposed to abide by.

4 Q. So when you say "I probably would
5 have," that's different than yes.

6 A. I don't recall. It's ten years
7 ago when I did --

8 Q. Okay.

9 A. -- or didn't. My -- I answered
10 your question in that I did, certainly looked at
11 it.

12 Q. Okay. And so this is portions of
13 the Controlled Substances Act. As you know,
14 it's multiple pages and a little lengthy, right?

15 Is that correct, or do you
16 remember?

17 A. No. I remember the act to be this
18 regulation in front of me or the pieces that we
19 focused on.

20 Q. Okay. So the portion in front of
21 you is from the United States Congress.

22 Do you see that seal there?

23 MR. PYSER: Object to form.

24 Q. Do you see that?

1 A. Let me take a look at the document
2 for a minute. You're asking me some questions
3 about it from a long time ago.

4 Q. And you hadn't reviewed this in
5 preparation for your deposition; is that what
6 you're telling us?

7 MR. PYSER: Object to form.

8 Q. Did you review the regulations
9 that apply to the controlled substances in your
10 regulatory department?

11 A. I --

12 MR. PYSER: Object to form.

13 Don't answer questions about what
14 you did and didn't review in
15 preparation. If he wants to ask you if
16 you reviewed this particular document,
17 we'll allow you to answer that question.

18 BY MR. FULLER:

19 Q. Did you review the U.S.C., the
20 United States Code, the Controlled Substances
21 Act document?

22 MR. PYSER: If you recall.

23 A. In preparation, you're asking me?

24 Q. Yes, sir.

1 A. I don't recall looking at that
2 document in detail if we did.

3 Q. Fair enough.

4 Go ahead and take a look at what
5 we've provided you.

6 Have you had a chance to look at
7 it, Mr. Hartman?

8 A. One second.

9 Q. Sure.

10 A. Okay.

11 Q. All right. So this is a document
12 that's being marked as Plaintiff's 5 -- being
13 marked as Plaintiff's 5 is portions of the
14 United States Code.

15 - - -

16 (Cardinal-Hartman Exhibit 5 marked.)

17 - - -

18 BY MR. FULLER:

19 Q. Do you see that in front of you
20 where it says "Chapter 13. Drug Abuse and
21 Prevention Control. Subchapter, Control and
22 Enforcement"?

23 A. Yes.

24 Q. It says, "Introductory

1 Provisions."

2 Do you see that there?

3 A. Yes.

4 Q. And then it says: "Section 801.

5 Congressional findings and declarations;

6 controlled substances." And these are findings

7 and declarations by the United States

8 government.

9 You're aware of that, right?

10 A. That's what it says.

11 Q. And it says, "Congress makes the

12 following declarations." I want you to read

13 Number 2 to us.

14 A. "The illegal importation,

15 manufacture, distribution, and possession of

16 improper use of controlled substances have a

17 substantial and detrimental effect on the health

18 and general welfare of American people."

19 Q. And do you agree or disagree with

20 that, that the illegal importation and

21 distribution of controlled substances can have a

22 substantial and detrimental effect on the health

23 and general welfare of the American people?

24 MR. PYSER: Object to form.

1 A. It's a regulation for the United
2 States. Of course I agree with it.

3 Q. Well, I'm asking if you agree with
4 the declaration.

5 A. Of course I do.

6 Q. Okay. Let's go to page 4 of the
7 document.

8 MR. PYSER: Counsel, for the
9 record, that we're clear, this is an
10 excerpt of pieces of the United States
11 Code that you've created, correct?

12 MR. FULLER: As I stated earlier,
13 yes, sir, it is.

14 BY MR. FULLER:

15 Q. Do you see subsection 823,
16 "Registration requirements"?

17 A. Yes.

18 Q. Okay. And read Number 1 aloud to
19 us -- which is one of the registration
20 requirements for a distributor, right?

21 A. "Maintenance of effective control
22 against diversion of particular controlled
23 substances into other than legitimate medical,
24 scientific, and industrial channels."

1 Q. Do you know what that means?

2 MR. PYSER: Object to form.

3 A. I believe I do.

4 Q. Well, explain to the jury what
5 that requirement requires for Cardinal Health.

6 A. It requires a distributor to have
7 a system in place to monitor controlled
8 substances and to report.

9 Q. Well, it says "effective controls
10 against diversion." So not only do you have to
11 report, you have to try to prevent diversion,
12 right?

13 A. I think preventing diversion is
14 always the right thing to do.

15 Q. Well, I'm wanting to know if
16 that's what the regulation, this United States
17 Code that our U.S. Congress enacted -- I want to
18 know if that's what the U.S. Congress is
19 requiring from Cardinal?

20 MR. PYSER: Object to form.

21 Misstates evidence. This Code requires
22 the Attorney General to take actions.

23 MR. FULLER: Okay. A.J., where's
24 that deposition protocol?

1 I've asked you, Mr. Pyser, now a
2 couple times to not do talking
3 objections, and then according to the
4 deposition protocol on subsection C,
5 Objections and Directions Not to Answer.
6 "All objections, except those to form
7 and privilege, are reserved until --
8 reserved until trial or other use.
9 Counsel shall refrain from engaging in
10 colloquy during the depositions. No
11 speaking objections are allowed."

12 I would ask you to please refrain
13 and follow the deposition protocol,
14 which you guys have agreed to.

15 MR. PYSER: I will follow the
16 deposition protocol. I have been
17 following the deposition protocol, and
18 I'm sure all your colleagues on the
19 Plaintiff side will never make another
20 speaking objection.

21 So we can proceed, Counsel.

22 MR. FULLER: Okay. I just want
23 assurance from you that you're not going
24 to continue the speaking objections.

1 MR. PYSER: That was not a
2 speaking objection. I was explaining
3 the basis for my objection when you
4 misstate evidence.

5 MR. FULLER: Okay.

6 MR. PYSER: Continue, and I will
7 abide by the deposition protocol.

8 MR. FULLER: The order of the
9 Court is only form objections, and if I
10 want a clarification as to what the form
11 objection is, I will certainly ask.

12 MR. PYSER: Continue your
13 examination.

14 MR. FULLER: But until I do so, I
15 would ask you to refrain from the
16 speaking objections. I appreciate it.
17 Thank you.

18 BY MR. FULLER:

19 Q. Again, Mr. Hartman, I apologize
20 for that.

21 This U.S. Code requires that the
22 registrant maintain effective controls against
23 diversion, right?

24 MR. PYSER: Object to form.

1 A. That's what it says.

2 Q. We have to try to prevent
3 diversion. Isn't that the idea that you get
4 from the code?

5 A. That's what it says.

6 Q. That should be what everyone tries
7 to do, isn't it, or shouldn't it be?

8 MR. PYSER: Object to form.

9 A. I agree with preventing diversion.

10 Q. Okay. So not only do we --
11 according to what you said, we have to report,
12 we also have to try to prevent diversion,
13 correct?

14 A. Yes.

15 Q. And if we are shipping orders that
16 we know are suspicious or are likely to be
17 diverted, you would agree that we'd be breaking
18 this law?

19 MR. PYSER: Object to form. Calls
20 for a legal conclusion.

21 A. I'm sorry, the question one more
22 time. If we're --

23 Q. Sure.

24 If we're shipping orders that we

1 know are suspicious or are likely to be
2 diverted, then we're not complying with this
3 regulation?

4 MR. FULLER: Object to form. Same
5 objection.

6 Q. Correct?

7 A. I agree with that.

8 Q. Okay. So that's the U.S. Code.
9 We've talked about that. That's the Controlled
10 Substances Act. So let's move to 4916 -- or,
11 no, 4915.

12 THE VIDEOGRAPHER: Counsel, your
13 mic fell off.

14 - - -

15 (Cardinal-Hartman Exhibit 4 marked.)

16 - - -

17 BY MR. FULLER:

18 Q. So you understand the difference,
19 Mr. Hartman, this is a C.F.R., Code of Federal
20 Regulations, not enacted by Congress, but
21 enacted by an agency given the authority to
22 institute regulations. Okay?

23 A. Yes.

24 Q. Okay.

1 A. Thank you.

2 Q. And this is 21 -- this is going to
3 be Plaintiff's 4. This is 21 C.F.R. 1301.74.

4 Do you see that there?

5 A. Yes.

6 Q. And the title of the section is
7 "Other security controls for non-practitioners,
8 narcotic treatment programs, and compounders for
9 narcotic treatment programs."

10 And read section b for us, if you
11 would.

12 A. "The registrant shall design and
13 operate a system to disclose to the registrant
14 suspicious orders of controlled substances. The
15 registrant shall inform the Field Division
16 Office of the Administration in his area of
17 suspicious orders when discovered by the
18 registrant. Suspicious orders include orders of
19 unusual size, orders deviating substantially
20 from normal pattern, and orders of unusual
21 frequency."

22 Q. Okay. And is this what you were
23 referring to when you gave us Rules 1 and 2?

24 Let's go to the overhead, please.

1 Is this what you were referring to
2 when you gave us the CSA Rules 1 and 2 that we
3 wrote down earlier?

4 A. Yes.

5 Q. Okay. So in addition to that,
6 based on 4916 and the U.S. Code, we also have a
7 third obligation; is that right?

8 MR. PYSER: Object to form. Legal
9 conclusion.

10 Q. And that's to maintain effective
11 controls against diversion of particular
12 controlled substances. We have to try to
13 prevent them.

14 MR. PYSER: Object to form.

15 Q. Is that right? I mean, that's
16 what you testified to earlier.

17 A. I'm sorry. What are you saying
18 the third requirement is?

19 Q. We have to maintain effective
20 controls against diversion. We have to try to
21 prevent diversion, according to the United
22 States Congress.

23 MR. PYSER: Object to form.

24 Misstates evidence.

1 A. You're back -- you're saying the
2 third component from the U.S. --

3 Q. From the code.

4 A. From the code?

5 Q. Yes, sir. We have our
6 regulation --

7 A. I follow what you're saying.

8 Q. So we have our regulation, right,
9 that deals with suspicious orders and reporting
10 suspicious orders; is that fair?

11 A. Yep.

12 Q. Okay. We also have our U.S. Code
13 that requires us to maintain effective controls
14 against diversion. We have to try to prevent
15 diversion.

16 A. Yes.

17 MR. PYSER: Object to form.

18 Misstates evidence.

19 Q. And I will represent to you that
20 the U.S. -- the CSA, the Controlled Substances
21 Act, was passed in 1970.

22 Does that coincide with your
23 recollection?

24 A. Yes. That ...

1 Q. All right. And you mentioned
2 earlier that something had changed with the DEA,
3 right?

4 A. Yes.

5 Q. Now, let's talk about it for a
6 second. Because we have these three
7 obligations. If we spot somebody that's getting
8 a suspicious order, that's an order that we
9 think may be diverted, right?

10 A. If we -- if we determine it's a
11 suspicious order versus an order of interest, a
12 suspicious order.

13 Q. I understand the industry likes to
14 make that distinction, and that's fine. But if
15 it's determined to be a suspicious order, that
16 means we have a concern about it being diverted,
17 right?

18 MR. PYSER: Object to form.

19 Q. Well, let me ask, do you know what
20 a suspicious order is, Mr. Hartman?

21 A. Certainly. We put in our
22 practices in order to try to identify any
23 suspicious orders which, in our system, we
24 looked at thresholds that we had established for

1 our customers, and we used a expert team to
2 review those orders.

3 And then we looked at the specific
4 customers and any information that we had on
5 them, and then gathered more if we had a
6 threshold event to determine if we felt that was
7 a suspicious order.

8 Q. So what is the definition of a
9 suspicious order, Mr. Hartman? Can you tell the
10 jury what that is.

11 MR. PYSER: Object to form.

12 A. What we put in place was to try to
13 respond to and make sure that we were within the
14 confines of this specific code of suspicious
15 orders, include orders of unusual size, orders
16 deviating from the normal pattern and orders of
17 unusual frequency. That was the principal we
18 used when we established -- when I got into
19 place the enhancements to our system.

20 Q. And the idea behind that is that
21 we want to prevent suspicious orders or orders
22 that may be diverted, right?

23 A. That's correct. I agree with
24 that.

1 Q. So if we have an order that we
2 think may be diverted, if we're going to
3 maintain or try to prevent diversion, we're not
4 going to ship it, are we?

5 MR. PYSER: Object to form.

6 Q. So we think --

7 A. If it was a suspicious order, we
8 would not ship it.

9 Q. And as far as you know, that's
10 been the requirement of these code sections
11 we've looked at?

12 A. No. That's not the -- that's --
13 when I came into role, that is the change I've
14 been talking about.

15 Q. That's the change. Well --

16 A. The "not ship."

17 Q. Okay.

18 A. That changed through the DEA as
19 they -- they evidently evolved in how they were
20 going to address anti-diversion. As I got into
21 role, that's how I understood it.

22 Q. Fair enough. But let's talk about
23 that.

24 A. Okay.

1 Q. You already testified that the
2 Controlled Substances Act, the Congressional
3 Record, requires us to try to prevent diversion,
4 right?

5 MR. PYSER: Object to form.

6 Q. Is that correct?

7 A. That's what it says.

8 Q. And that goes all the way back to
9 1970, doesn't it?

10 A. That's what you stated to me was
11 the passing of the law, I believe.

12 Q. I think the records will show
13 that. And it will show that that has not
14 substantially changed since that time.

15 So if that's the case, why would
16 we ever ship a suspicious order?

17 MR. PYSER: Object to form.

18 Q. If we got -- if we have an
19 obligation to try to prevent diversion, we need
20 not to ship to those who we think may be
21 diverting. You would agree with that, don't
22 you?

23 MR. PYSER: Object to form. Legal
24 conclusion.

1 Q. And you're free to disagree.

2 Listen, Mr. Hartman, you can testify that we
3 should ship suspicious orders.

4 A. I would never testify that way.

5 Q. Because you know that the law
6 doesn't require it and it's not the right thing
7 to do, correct?

8 MR. PYSER: Object to form.

9 A. But the -- but the conditions with
10 which we had been operating for years, and the
11 reports that we had filed, changed in process
12 when I came into role, and that's the piece that
13 I understood. And as I told you before, I
14 didn't spend any time on that. We then went to
15 enact the systems that met these new conditions.

16 Q. But let's just talk about common
17 sense. Okay? Let's forget about roles. Let's
18 forget about things that people told you
19 changed, because you weren't there then and you
20 don't know, right?

21 MR. PYSER: Object to form.

22 Q. You weren't in this department
23 during this time of this supposed change?

24 A. I was not, and I didn't spend a

1 lot of time on the past practices.

2 Q. You testified earlier you didn't
3 look back. You were only looking forward,
4 right? Isn't that what you testified to?

5 A. I think what I said was, we spent
6 time talking about the past. I didn't spend a
7 lot of my time on it.

8 Q. Sure. Okay.

9 A. I spent all of my time on the
10 conditions that we were under with the immediate
11 suspension orders, how we could meet those
12 conditions that were upon us and have the system
13 that would allow the DEA to come in and say to
14 us, we got our licenses back and we could
15 operate it -- our normal supply chain. That's
16 what I did.

17 Q. Okay. Fair enough.

18 A. So when you say I didn't -- I
19 didn't look back, I looked back, but not to any
20 substantial degree. I focused on the future.

21 Q. And you knew when you came in that
22 these three requirements were set out by the
23 Controlled Substances Act and the relevant
24 regulations, right?

1 MR. PYSER: Object to form.

2 A. To my -- sorry.

3 MR. PYSER: Go ahead and answer.

4 A. To my recollection, what I was
5 focused on were those first two elements of the
6 Controlled Substances Act. I -- that's what I
7 was focused on.

8 Q. I understand that.

9 A. The -- the --

10 Q. But Cardinal also had to comply
11 with United States Code, the Controlled
12 Substances Act.

13 A. I --

14 MR. PYSER: Counsel, please let
15 him finish his answers. You cut him off
16 again.

17 Q. Right?

18 A. What I was focused --

19 MR. PYSER: Object to form.

20 THE WITNESS: I'm sorry.

21 MR. PYSER: Go ahead.

22 A. What I was focused on was the two
23 elements that I originally spoke to you about.
24 That's what I spent my time on. I didn't spend

1 any time on this -- the United States Code
2 annotated. It was inherent in the job that you
3 weren't going to do diversion. But if you're
4 asking about was I, you know, educated in and
5 working through this code itself, no, I was not.

6 Q. So, listen, we -- let's back up
7 for a second. Okay? I mean, I think the record
8 is clear what you already testified to.
9 Cardinal had to comply with the Controlled
10 Substances Act, correct?

11 A. Yes.

12 Q. The Controlled Substances Act
13 requires that you try to prevent diversion.
14 You've already testified to that, right?

15 MR. PYSER: Object to form. Legal
16 conclusion.

17 Q. Do you -- hold on. Let me --
18 strike that question.

19 Do you not have an understanding
20 that the whole premise behind the Controlled
21 Substances Act is to prevent diversion?

22 MR. PYSER: Object to form.

23 Q. Yes or no?

24 A. Well, I -- you know, for me it was

1 about the suspicious orders, how we identified
2 them to the DEA requirements and how we reported
3 those to the DEA per their requirements under
4 the immediate suspensions that Cardinal had
5 received prior to me coming in the role, and
6 that's where I spent my time.

7 Q. So you didn't worry about this
8 trying to prevent diversion aspect of it?

9 A. That's incorrect.

10 Q. So you did worry about it?

11 A. Any system would worry about that.

12 Q. Okay. So you would agree, as you
13 did just a moment ago, that you're not going to
14 ship suspicious orders because of the fear of it
15 being diverted, correct?

16 MR. PYSER: Object to form.

17 A. We're not -- we wouldn't ship
18 suspicious orders, specifically trying to
19 address this call-out of unusual size, deviating
20 substantially from normal pattern, orders of
21 frequency, because diversion was not coming from
22 us. We were trying to stop -- if -- we were
23 trying to stop those orders, suspicious orders,
24 under these conditions.

1 Q. Okay. And those conditions had
2 been in place since 1970s, as you've testified,
3 right?

4 A. That's what I understand.

5 MR. PYSER: Object to form.

6 Q. And whether -- this whole DEA
7 change in position, let's set that aside.

8 From a common sense perspective,
9 therefore, we're not going to ship any orders
10 that we identify as suspicious, correct?

11 MR. PYSER: Object to form.

12 Vague.

13 A. Right.

14 Q. Because if we have the fear of
15 them being diverted, we're not living up --
16 forget our legal obligation. We're not living
17 up to our moral obligation as a responsible
18 corporation, are we?

19 MR. PYSER: Object to form.

20 A. I don't agree with your premise
21 here of what was being done.

22 Q. I'm not saying it was being done.
23 I didn't say -- listen to my question,
24 Mr. Hartman. I didn't say it was being done.

1 I said, if we do ship suspicious
2 orders, we wouldn't be living up to that moral
3 obligation that we have to all those people we
4 serve out there?

5 A. We built out and expanded our
6 program based on the DEA criteria in order to
7 find those suspicious orders and then to not
8 ship them.

9 Q. That wasn't my question,
10 Mr. Hartman. My question is, if we were
11 shipping suspicious orders at any time, orders
12 that we identified that could be diverted, we're
13 not holding up our end of the moral spectrum as
14 a responsible corporate entity, are we?

15 MR. PYSER: Object to form.

16 A. I don't -- I don't agree with your
17 premise.

18 Q. Okay. So you believe if we ship
19 suspicious orders, that's okay?

20 A. I've already told you I don't.

21 Q. So which is it? You can't have it
22 both ways.

23 MR. PYSER: Object to form.

24 Q. So let me try it differently, see

1 if we connect.

2 From the enactment of the
3 requirement to identify suspicious orders, you
4 would agree that we should not -- we should not
5 ship any orders that we deem suspicious,
6 correct?

7 MR. PYSER: Object to form.

8 Vague.

9 A. Yes.

10 Q. Okay.

11 MR. FULLER: We'll mark that as
12 Plaintiff's 6.

13 - - -

14 (Cardinal-Hartman Exhibit 6 marked.)

15 - - -

16 BY MR. FULLER:

17 Q. All right. Mr. Hartman, when you
18 were filling this regulatory role and when --
19 the little look back you did, you're aware that
20 there were budgetary battles, correct, with
21 trying to secure sufficient resources for the
22 regulatory department, right?

23 MR. PYSER: Object to form.

24 A. Boy, there were -- there's always

1 budgetary battles.

2 Q. Particularly with regulatory,
3 right?

4 A. That -- I don't know that. I
5 wasn't in role. I was in a -- in corporate
6 functions. So I -- I didn't spend time there.
7 That could be true.

8 Q. So did you ever hear of budgetary
9 battles going on with regulatory and them not
10 getting what they believe the resources they
11 needed to do their job with anti-diversion?

12 A. In my time period, I not only got
13 everything I wanted, I had the support of the
14 CEO on that.

15 Q. What about outside your time
16 period? Are you aware of budgetary battles and
17 regulatory not getting what they needed to do
18 their job?

19 A. I was not aware of regulatory. I
20 was certainly aware of --

21 Q. What were you aware of?

22 A. Well, I was on the corporate
23 functions. It's a corporate -- it's a
24 corporate -- budget battles happen all the time.

1 Q. I want to know with QRA --

2 A. I was not knowledgeable of that.

3 Q. -- or supply chain integrity, if
4 you were ever made aware of budget battles
5 occurring before, after, at any time?

6 A. Any time? Yes. After I left
7 Cardinal, Michael had communicated with me.

8 Q. That's Mr. Moné, correct?

9 A. Yes, Michael Moné. Had
10 communicated with me that they were at budget
11 time. I was not at Cardinal. And I responded
12 to him, basically to "Stay tough. Stick with
13 it."

14 Q. Because it's a budgetary battle?

15 A. Budgetary battle.

16 Q. Let's look at that. It's 3904.

17 - - -

18 (Cardinal-Hartman Exhibit 7 marked.)

19 - - -

20 BY MR. FULLER:

21 Q. And who was the -- you said the
22 CEO even approved your budgets. Who were you
23 referring to? Or you had the support.

24 A. When I went into role, the -- one

1 of the meetings I had prior to taking the role
2 was with Kerry Clark, and we talked about the
3 role, and I talked about the fact that I would
4 need his support before I accepted the role.

5 Q. Right.

6 A. I would need his support to get
7 whatever I needed to do whatever I needed to do.

8 Q. Because from the information that
9 you already knew, you knew it was going to
10 require additional resources and additional
11 staff to be able to do the job the way you
12 wanted it to be done, correct?

13 A. For my time period, that's
14 correct.

15 Q. Okay. So let's look at --

16 MR. FULLER: Is this Number 7?

17 MS. QUEZON: Yes.

18 BY MR. FULLER:

19 Q. All right. So let's look at
20 Exhibit Number 7. It's 3904 in the upper right;
21 is that correct, Mr. Hartman?

22 A. Yes.

23 Q. Okay. And this is that e-mail
24 between you and Mr. Moné, isn't it?

1 A. Correct.

2 Q. And it was sent back and forth
3 between your personal accounts. That's not your
4 Cardinal e-mail account, is it?

5 A. Correct.

6 Q. And Mr. Moné, what's his e-mail
7 address there?

8 A. J-a-t-r-o --

9 Q. I think it's a G.

10 A. I'm sorry.
11 G-a-t-o-r-x-j-d1210@msn.com.

12 Q. Is he a Gator fan?

13 A. He is a big Gator fan.

14 Q. Well, me and him may get along
15 because I went to the University of Florida.

16 A. I hope you do. He's a good guy.

17 Q. Good. It seems like you guys got
18 along even outside of work; is that right?

19 A. Oh, yes.

20 Q. And is he still with the company?

21 A. Yes.

22 Q. And what is his position
23 currently, if you know?

24 A. I don't know the title. I believe

1 he's in regulatory, the regulatory office.

2 Q. Okay. And this is sent to you
3 shortly after you leave; isn't that true?

4 A. May 26, 2010. I had been gone
5 about a quarter.

6 Q. So -- because you left in
7 February --

8 A. Yes.

9 Q. -- right?
10 So March, April, and then May?

11 A. Yes.

12 Q. Okay. And so we lay the
13 groundwork here, the budgetary time frame runs
14 from July 1 to June 30, correct?

15 A. Yes.

16 Q. That's the fiscal year?

17 A. That's the fiscal year, yes. At
18 that time, it was. I suppose it still is.

19 Q. Sure.

20 And the budgetary process,
21 therefore, takes part in probably the first and
22 second quarter of the year, right?

23 A. Yeah. Budgetary -- yeah, they go
24 all year long.

1 Q. I can imagine so. I can imagine
2 so.

3 All right. So let's take a look
4 at this. Mr. Hartman says, "Hey, Mark" -- or
5 excuse me. Mr. Moné says, "Hey Mark." And then
6 read the second sentence there.

7 A. "We lost in the budget defense big
8 time and Giacomini is mounting an attack on QRA
9 and we don't seem to have a strategy or at least
10 we are not being kept informed."

11 Q. Who is Giacomini? Tell the jury
12 who Giacomini is.

13 A. John, I believe at that time, was
14 the president of the pharma division at
15 Cardinal.

16 Q. And I'll represent to you that
17 documents are a little unclear, but it indicates
18 from 2008 to sometime in 2010 he was executive
19 vice president of operations.

20 A. Yes.

21 Q. And then in 2010, he became
22 president of U.S. pharmaceutical.

23 Does that seem to coincide with
24 your recollection?

1 A. When in 2010 did he --

2 Q. That's the part that's unclear.

3 I'm not sure.

4 A. Yeah, so I'm not sure what role

5 John was in here. But to your point, I do

6 recall he was executive vice president of

7 operations later on somewhere in 2010 time

8 frame.

9 Q. Right. So he's either executive
10 VP of ops or he was president of pharmaceutical,
11 right?

12 A. Yeah.

13 Q. Fair enough.

14 And he apparently -- or at least
15 according to Mo- -- and did you actually speak
16 to Mr. Moné about this?

17 A. I don't recall any live
18 conversations. I think --

19 Q. Just the e-mail?

20 A. Just the e-mail.

21 Q. And he indicates that "We lost the
22 budget defense big time." Which indicates his
23 budget got cut, right?

24 MR. PYSER: Object to form.

1 A. Yes. So --

2 Q. They cut his budget.

3 A. -- I think you have to put it in
4 context of "big time." What Michael was
5 fighting for, as you'll see in a later e-mail,
6 was one position that they were fighting for,
7 which was an administrative position. And the
8 argument was, I believe at the time -- again, my
9 recollection is that the system was now doing
10 that work and they would use that head count,
11 that person, in another role someplace else.

12 Q. And he goes on to say, that
13 "Giacomin is mounting an attack on QRA."

14 A. Yes.

15 Q. I mean, the guy in operations --

16 A. Right.

17 Q. -- right?

18 And you had a little bit of a
19 concern about reporting to people in operations
20 at one time, too, didn't you?

21 A. Well, I made sure, based on my
22 role, that I stayed independent from anybody
23 else to influence me.

24 Q. Particularly operations, because

1 what are they going to want to do? Just what
2 they did here --

3 A. Well, they didn't --

4 Q. -- is attack?

5 A. I think in the later e-mail you'll
6 find that didn't happen.

7 Q. We'll see. We'll see. Let's keep
8 going.

9 A. You have all my documents, right?

10 Q. I -- we have them all. Your
11 counsel has them all, right?

12 A. Yes. Everything I -- I gave him
13 everything that I have.

14 Q. Okay.

15 A. So -- and later on he addresses
16 that he kept the head count. And that was the
17 whole commentary there about this.

18 Q. Let's keep going.

19 "Giacomin is mounting an attack on
20 QRA. We don't have a strategy or at least we
21 are not being kept informed. And it's because
22 we have no presence on the fourth."

23 What's "the fourth"? Tell the
24 jury what "the fourth" is.

1 A. The fourth -- the fourth floor was
2 where the leadership team for pharma was
3 officed. I was there. In my tenure, I moved us
4 off of the fourth to the third floor where the
5 regulatory group had been. So they remained --
6 evidently they remained on the third floor. So
7 when he says "on the fourth floor," he's talking
8 about physical proximity, I believe.

9 Q. Right. To decision-makers?

10 A. I suppose.

11 Q. And it's the lack of visibility,
12 just what you mentioned, down on the third --
13 listen. Maybe you've forgotten.

14 A. You're in the -- you're in the
15 budget battle -- you know, got to have what you
16 need, and we had gotten everything we needed.
17 And he was fighting for one head count. To him,
18 that was big. We had talked about it before I
19 left. You know, keep that position.

20 Q. And this is Moné. So this is the
21 QRA side, right, quality regulatory affairs?

22 A. Well, and he was specifically the
23 anti-diversion side.

24 Q. The anti-diversion?

1 A. Yes.

2 Q. And how many people did he
3 actually have?

4 A. At that time, I don't know, but --
5 I'd have to see his org chart. I mean, when we
6 built it out, we had six, seven, eight in his
7 group, between the pharmacists --

8 Q. Right.

9 A. -- the investigators and the
10 administrative staff that supported that whole
11 group on his side.

12 Q. Sure.

13 A. And then there was Steve Reardon's
14 side.

15 Q. Which is -- what do you call that
16 side?

17 A. He was -- he was regulatory
18 affairs.

19 Q. Regulatory affairs.

20 So on Moné's side, if you take
21 away one of seven, that's a pretty big cut.
22 Greater than 10 percent at least, right?

23 A. Well, just for perspective, what
24 we had talked about is that our systems had

1 begun to do lots of the administrative work as
2 opposed to human beings. So in my view, as you
3 can -- I think you can see through my e-mail,
4 you know, it's a budget battle. You could lose,
5 but stay after it. Don't lose it. Which he
6 didn't.

7 Q. Well, you're telling him, "Keep up
8 the good fight."

9 A. Which he didn't. And he retained
10 his positions, and he retained what he needed.

11 Q. So we'll talk about that. But you
12 also are aware that prior to your taking this
13 position, there are also budget battles and
14 deficiencies in what the regulatory department
15 had as well, aren't you?

16 A. When you said -- before my time, I
17 was not intimately involved with regulatory
18 affairs, so I -- I'm not aware of the budget
19 battles, if you will, that they had. I wasn't
20 aware. I wasn't with them. I didn't
21 participate in their parts of the meetings where
22 we'd go through the budget, you know, the budget
23 needs, the budget requirements, the things we
24 were going to do for the next year.

1 Q. Let me ask, when you came into the
2 department, clearly needed to make changes,
3 didn't you?

4 A. Again, when I was just coming into
5 the department, I didn't understand what was
6 happening. I didn't know much about it.

7 Q. But didn't you already know that
8 you needed more resources?

9 A. But I -- well, when I talked to
10 Kerry, that's exactly what any good executive
11 would do. The first thing they do is --

12 Q. Absolutely.

13 A. -- ask for the money, ask for the
14 support, and that's what I got during my time
15 frame.

16 Q. And you weren't going to do it to
17 be wasteful, were you?

18 A. You don't do that.

19 Q. Fair enough.

20 Keep reading on -- "after the lack
21 of visibility." What does Mr. Moné says -- say?

22 A. "We are about to find out that
23 some of our recent unpopular decisions were
24 correct, though the yelling continues. Issues

1 at borschow have created another firestorm on
2 the price diversion side."

3 Q. It says "our unpopular decisions
4 were correct." Do you know what he's referring
5 to?

6 A. I have -- I have no knowledge what
7 he's referring to. I can surmise that. In our
8 role as an anti-diversion, we made plenty of
9 calls, and we certainly discussed it. And the
10 calls that we made were debated, at the end of
11 the day. What Michael said we were going to do,
12 and I supported, or if I was going to be the
13 decision-maker on it, which a few of them I
14 was -- I don't recall which ones -- we called
15 the shot.

16 Q. And it was the unpopular call
17 related to anti-diversion in not shipping
18 controlled substances, right?

19 MR. PYSER: Object to form.
20 Speculation.

21 Q. Those were the tough calls?

22 A. Well, the tough calls are anytime
23 you have a -- certainly anytime you have a
24 customer and they hit a threshold and then

1 you're making -- doing the review around, is
2 that a suspicious order, what other information
3 is there? And do -- and then does it -- do we
4 need to deem it a suspicious order? They're all
5 tough calls.

6 Q. Absolutely. And that was y'all's
7 obligation -- I say y'all, regulatory's
8 obligation was to make those tough decisions,
9 those unpopular-by-everybody-else decisions,
10 correct?

11 A. And we did.

12 Q. And that's why you wanted to work
13 out from underneath operations or anybody else
14 who you mentioned may have influence upon you,
15 correct?

16 A. That's correct.

17 Q. Because you didn't want that to
18 happen because you saw and you know that it
19 wouldn't be the best way to run the regulatory
20 department; isn't that true?

21 A. Being separate, have a completely
22 independent voice around what actions we took
23 was how I saw to get the job done, and during my
24 time frame, that's what we did.

1 Q. And when you came into the
2 department and made those changes, that's not
3 the way it was being done. It was oversaw by
4 those who didn't like unpopular decisions,
5 correct?

6 MR. PYSER: Object to form.

7 A. You know, I don't know where the
8 reporting structure was. Again, I was heads
9 down in a corporate function and some pretty big
10 things we had going on. I was not operating in
11 the division at that time. So I -- you know,
12 Steve Reardon will certainly be able to respond
13 to those questions as to where we were, what we
14 were doing.

15 Q. Now, let's go up to your response.

16 A. Okay.

17 Q. You say, "Wow, an accident" --
18 now, we didn't read the part where Mr. Moné got
19 into a car accident, right?

20 A. Don't want to read that?

21 Q. No, no.

22 A. That's --

23 Q. That's important?

24 A. Well, he takes care of people

1 there.

2 Q. I understand. I understand.

3 And then you mentioned the budget
4 battle that we've already talked about, right?
5 That's what you called it?

6 A. Oh, yeah. Well, there isn't --
7 there isn't a -- if you want to define it any
8 different way, any discussion you have around
9 budgets are always battles around what you need
10 and then what you want. And what you try to
11 decipher as a corporation is, the needs, what
12 are the needs to help our business and to move
13 it forward, support our customers?

14 The wants oftentimes get layered
15 in there, and they're difficult to discern. You
16 know, big companies, big budgets. And so I
17 always refer to it as the budget battles.

18 Q. And it clearly was to Mr. Moné.
19 Read what you go on to say.

20 A. "You know there is a likelihood
21 you will not get the head count backfill."

22 Q. Keep going.

23 A. "I would not cave on that, but
24 privately prepare for the worst."

1 Q. Finish out.

2 A. "I'll certainly see if I can get
3 those guys a note to support you and thusly
4 Shirlene."

5 Q. And Shirlene is Ms. Justus, right?

6 A. Yes.

7 Q. Okay. And she actually came to
8 that division or that department with you when
9 you took on that role?

10 A. That's right.

11 Q. And she had been working with you
12 previously in your other roles at Cardinal?

13 A. Correct.

14 Q. And is she still there, as far as
15 you know?

16 A. As far as I know.

17 Q. Okay. And it sounds like -- it
18 next goes on to say, "It sounds like the
19 situation is unfolding a bit like we projected."
20 Right?

21 A. That's what I said.

22 Q. Continue reading for us.

23 A. "It's a shame if the department is
24 relegated to less-than-needed authority or

1 investment. It will haunt the organization at
2 some point."

3 Q. Now, let me stop you there. Is
4 this the haunting you're referring to?

5 MR. PYSER: Object to form.

6 A. The --

7 Q. The haunting you're referring to.
8 These bad decisions related to regulatory and
9 these lawsuits that have now been brought upon
10 the company for creating this epidemic. Is that
11 the haunting you're referring to?

12 A. No, that's not what I'm referring
13 to.

14 Q. What haunting are you referring
15 to?

16 MR. PYSER: Object to form. And
17 objection on the last one too. Same
18 objection.

19 A. I'm talking about the fact that
20 the haunting is taking away from the
21 organization a head count that we felt we needed
22 badly. Didn't want. We felt we needed. Other
23 people in the organization could think it's a
24 want or a need that we -- excuse me. A want

1 that we were just putting forward.

2 We're saying here the haunting
3 part of this is to lose that head count. So --
4 and if any -- and, of course, it should say -- I
5 wrote that, authority or investment. The whole
6 point is, while I was there, I had everything
7 that I wanted, and the investment was behind me.
8 And that was -- what I didn't want Michael to
9 lose was that position of investment that he
10 felt he needed.

11 Q. From others in the organization,
12 right?

13 A. Sure, yes.

14 Q. And now he feels like Giacomini is
15 attacking him, and the haunting that's coming,
16 you're right, is the lack of support, the lack
17 of investment. And the result is what we see
18 here today, an opioid epidemic going on in our
19 country; isn't that true?

20 MR. PYSER: Object to form.

21 A. That was not my inference here.
22 My inference was around the budget and what
23 Michael needed in order to do the job for
24 Cardinal Health. And if you know from further

1 e-mails, he retained his position, and budget
2 was good.

3 Q. And you know we're now facing an
4 opioid epidemic in this country, don't you?

5 MR. PYSER: Object to form.

6 A. I sure do.

7 Q. And we have been for a long time,
8 haven't we?

9 MR. PYSER: Object to form.

10 A. I'd agree with "long time."

11 MR. FULLER: Let's take another
12 break.

13 THE VIDEOGRAPHER: The time is now
14 11:47.

15 (Recess taken.)

16 THE VIDEOGRAPHER: The time is now
17 12:00 p.m. Back on the record.

18 BY MR. FULLER:

19 Q. All right, Mr. Hartman. We were
20 talking about the budget battles that were
21 occurring. How many people were in regulatory
22 when you came into that position in December of
23 2007?

24 Mr. Reardon was there, correct?

1 A. Oh, yeah.

2 I don't recall. I'm guessing, but
3 I'm going to assume in the seven, eight, nine,
4 ten range. I'm not sure.

5 Q. And now -- and Mr. Moné's side,
6 supply chain integrity, was just being created,
7 right?

8 A. Yes.

9 Q. Okay. And that hadn't been fully
10 staffed yet, correct?

11 A. No.

12 Q. No, I'm right, it hadn't been
13 fully staffed, or no, I'm wrong and it had been
14 fully staffed?

15 A. Ask me the question, and I'll give
16 you that answer.

17 Q. Fair enough.

18 Mr. Hartman, when you came into
19 the regulatory department, Mr. Moné had already
20 been hired, correct?

21 A. Yes.

22 Q. And his section was called what
23 again?

24 A. Anti-diversion.

1 Q. Anti-diversion.

2 The staffing for his department
3 had not been completed as of that point in time,
4 correct?

5 A. Correct.

6 Q. Okay. So let's go -- and you just
7 testified you're not sure about the staffing
8 when you came in.

9 Did you look at anything to
10 indicate what the staff had been in the past for
11 anti-diversion, the regulatory departments?

12 A. Like all things, I'm sure we
13 looked back. We looked at it. And we just put
14 stakes in the ground and moved forward and what
15 do we need and how do we get those resources.
16 So ...

17 Q. Let's go to 4765.

18 - - -

19 (Cardinal-Hartman Exhibit 8 marked.)

20 - - -

21 BY MR. FULLER:

22 Q. Mr. Hartman, as you can see, this
23 is an Operation 1 Cardinal Health quality
24 management meeting document, correct?

1 A. Yes.

2 Q. And it's dated January 13, 14 of
3 2005; is that right?

4 A. Yes.

5 Q. Okay. This would have been when
6 you were with the company, just not in
7 regulatory; is that fair?

8 A. Yes.

9 Q. So if you turn all the way back to
10 page 64. We want to take a quick look at just a
11 couple things related to the regulatory
12 department at the time.

13 During that time it was still
14 called QRA or quality regulatory affairs; is
15 that correct?

16 A. I agree with that. I -- probably.

17 Q. Okay. It says here the QRA model.
18 Do you see that?

19 A. Where -- are you on the top side
20 or --

21 Q. Yes, sir. If you look on the
22 screen, because those printouts are hard to
23 read.

24 A. Yeah.

1 Q. The screen in front of you may
2 help.

3 A. Oh. Gotcha.

4 Q. She blows it up so our eyesights
5 can work.

6 So, Mr. Hartman, this indicates,
7 on page 64 here, that it's internal client
8 perspective of QRA; is that right?

9 A. Yes.

10 Q. Okay. And it says, "The QRA
11 model." Read the first bullet point to us.

12 A. "Quality is not a mindset at
13 Cardinal Health. We are not proactive. This is
14 not a high enough priority today."

15 Q. Then it goes on to say, "When
16 financials are tight, quality suffers," doesn't
17 it?

18 A. It says that.

19 Q. Now, during this time, you weren't
20 in this department; is that fair?

21 A. That's correct.

22 Q. Now, do you know from your
23 experience in the department that having a
24 regulatory mindset, having a compliance mindset,

1 is very important to the operations of the
2 business, isn't it?

3 A. Yes.

4 Q. Having sufficient resources so
5 that people can do their jobs is also
6 detrimental for the compliance department, isn't
7 it?

8 A. It's important to have the right
9 resources to do the regulatory job.

10 Q. And not just the right resources
11 and number of people, but also the right
12 support, like you said? You specifically went
13 to Clark and got his assurance that he would
14 back you on what you needed to be able to do the
15 job the way you saw fit, didn't you?

16 A. I did that.

17 Q. If we go on, it says "Need to
18 understand" -- or excuse me. "Corporate quality
19 organization - not sure what their role should
20 be."

21 And our screen went blank. There
22 we go. Let's try that again.

23 The next line, Mr. Hartman, reads,
24 "Corporate quality organization - not sure what

1 the role should be."

2 Corporate quality should have an
3 absolute laser beam on what their role should be
4 in the organization, shouldn't they? They've
5 got to know what their focus is to be able to do
6 their jobs?

7 A. In 2005, I -- again, we were -- we
8 were organizing ourselves differently. I don't
9 know what this document is, so I'd need to take
10 some time on it so that I could -- I won't be
11 able to answer your question because I -- that
12 might be the new organization of a department.

13 Q. And that's fair. But you would
14 agree, would you not, that corporate quality
15 should know what their role is?

16 A. Corporate quality should know what
17 their role is given a new department has time to
18 establish what they're about and the resources
19 that they have and how it was reorganized
20 potentially.

21 Q. Absolutely.

22 Then it says, "Need to understand
23 roles and what will be at Business or Segment
24 level."

1 Do you see that? Do you see that
2 there? Did I read it correctly?

3 A. Yeah, yeah, I see it.

4 Q. Okay. And then, "Corporate
5 Centers of Excellence would be of value."

6 You would agree with that,
7 wouldn't you?

8 A. Yes.

9 Q. And then, "Would like to see
10 stronger regulatory affairs" --

11 A. Let me come back on that.
12 Corporate Centers of Excellence. Okay. If I'm
13 going to respond to this, I need to look at this
14 document. I think I'm aware of the time period
15 we're talking about. And that time period would
16 be the genesis of responses that I can give you
17 as opposed to looking at one segment on here.

18 Can I do that?

19 Q. Well, here's the thing. Your
20 counsel wants to finish by 12:30 to take a lunch
21 break, and that's fine, but I want to finish
22 with this document. And I have a limited amount
23 of time.

24 A. Yes.

1 Q. And I'm not going to waste my
2 seven hours that we have letting you go through
3 a big old document that somebody hadn't bothered
4 to show you before.

5 A. I -- can I just take a minute?

6 Q. Absolutely.

7 MR. PYSER: You can take as much
8 time as you want. If he wants to show
9 you a document --

10 MR. FULLER: And we'll go off the
11 record and you'll review it, and then
12 we'll come back on the record.

13 MR. PYSER: Wait till there's a
14 question.

15 A. Yeah.

16 Q. You were the one that said you
17 wanted to take a look at it, Mr. Hartman. Go
18 ahead.

19 A. I'm vaguely in the time frame. I
20 wasn't in quality. I'll take your questions.

21 Q. Okay. So the next section is
22 "People."

23 Do you see that there?

24 A. Yes.

1 Q. And read the first bullet point.

2 A. "Under-resourced today."

3 Q. Not enough people, not enough
4 resources. That's what it's saying, correct?

5 MR. PYSER: Object to form.

6 A. Yeah. This is a document in
7 response to the reorganization at Cardinal, and
8 I oversaw and was a part of watching all of
9 these departments. It's a big, big
10 transformation. Big. Lots of involvement.

11 Huge changes. I'll just tell you that I didn't
12 have a function that didn't come in with
13 anything different than this kind of lineup of
14 under-resourced or underfunded or needs money.

15 Q. Okay. We'll -- and we'll deal
16 with that.

17 A. And everybody had -- and that gets
18 back to the budget battle comment where I talked
19 to you about wants -- or needs versus wants.
20 And what we found in all of this, as we moved
21 forward to reorganize and make ourselves more
22 efficient, there were a tremendous number of
23 wants. What we had to get at were the needs,
24 and I don't know how this resulted.

1 Q. We'll see. And here's the thing,
2 Mr. Hartman, because Cardinal's entrusted with
3 dealing with what has been labeled and
4 legislatively enacted as dangerous drugs.

5 You're aware of that, right?
6 Control IIs are --

7 MR. PYSER: Object to form.

8 Q. -- by definition dangerous drugs.
9 You're aware of that, correct?

10 A. Yes.

11 Q. This is not a place to skimp. You
12 would agree with that? Regulatory needs to be
13 beefed up so they can do the job they need to do
14 in compliance with the regulations we talked
15 about earlier.

16 We can both agree on that as well,
17 correct?

18 MR. PYSER: Object to form.

19 A. Well, the only -- the only thing I
20 agree with is this is a document that came out
21 in a major transformation from one of the
22 functions about, we need more money, we need
23 more resources. And the way to do that is to
24 highlight things like you're seeing right here,

1 and I saw that in every single department that
2 came forward.

3 Q. Fair enough.

4 A. And it doesn't mean that they were
5 underfunded or they were under-resourced. That
6 does not say that here, when you get to the
7 corporate level of looking at the functions.

8 Q. Hold on. So you're the doc --
9 saying this document doesn't say they're not
10 under-resourced?

11 A. No. I'm saying that what's said
12 here is not necessarily a corporate position or
13 where we were at on quality as to how Cardinal
14 saw it. This is what the department is saying.

15 Q. Exactly. Exactly, Mr. Hartman.
16 It is the QRA department saying we're
17 under-resourced.

18 A. But it doesn't say it's -- it
19 doesn't mean it's necessarily right or that they
20 are under-resourced as we develop the
21 departments in this new organization.

22 Q. Sure. It doesn't mean it's true.
23 It's just what they're saying?

24 A. Yes.

1 Q. Fair enough.

2 The next bullet point says,
3 "People we have are good. Don't have enough
4 bench strength."

5 And you would agree again, that in
6 regulatory you have to have the depth. You have
7 to have the good people up and down the ladder,
8 correct?

9 A. You have to have good people.

10 Q. It says then, "Need to upgrade and
11 deepen talent."

12 You don't disagree with that
13 either, do you?

14 A. There isn't a budget discussion, a
15 department I've run, a place I've been, a thing
16 I've actually tried to execute and get done
17 where "need to upgrade" and "deepen talent"
18 doesn't exist. I agree with it.

19 Q. And then, "Not enough people"
20 again, right? That's what it says?

21 A. It says that, yes.

22 Q. That's what the QRA department is
23 saying during this time frame?

24 A. That's what they said.

1 Q. And then go to processes.

2 "The process" -- and you're aware
3 of this. This is the regulatory department,
4 bullet point 1: "Keeps us out of trouble but
5 not very proactive or innovative."

6 You would agree, would you not,
7 that you need to be proactive in regulatory?

8 A. Prior to my time, the "keep us out
9 of trouble," I agree with. The "not very
10 proactive or interactive," I don't know to agree
11 with you in the matter that we're talking about.
12 Cardinal was a big company. This is referring
13 to broad specter regulatory groups.

14 Q. Let's talk about it.

15 Are you aware of the New York AG
16 action for selling and diverting related to
17 price fixing?

18 MR. PYSER: Object to form.

19 A. I'm aware of it -- or I'm sorry.

20 MR. PYSER: Misstates evidence.

21 Q. Go ahead.

22 A. Ask me again.

23 Q. Are you aware of the New York AG
24 action related to diversion and price diversion?

1 MR. PYSER: Same objection.

2 A. I'm aware of it.

3 Q. Okay. And Cardinal then -- after
4 that action happened, then took steps to put
5 policies and procedures into place to react to
6 it, correct?

7 A. I -- again, it's before my time.

8 Q. So you don't know?

9 A. I don't know in that case what was
10 done.

11 Q. Fair enough.

12 In the 2000- --

13 A. But understand that the New York
14 Attorney General's action of price diversion is
15 completely separate and different from the
16 matter we're talking about in anti-diversion.
17 Completely separate. The two do not intermix.

18 There is nothing there that puts
19 the two of those two things together, other
20 than, while I was in role, Michael Moné did have
21 that action put under him for some period of
22 time. I didn't work on it. I didn't spend any
23 time on it. And I think we were downstream on
24 it, if you will.

1 Q. So your understanding is that the
2 New York AG action didn't involve diversion?

3 MR. PYSER: Object to form.

4 Misstates testimony.

5 A. Price diversion.

6 Q. Right.

7 And also divert -- the New York AG
8 agreement indicates that they are selling to
9 individuals that they know are diverting
10 controlled substances. They're selling to
11 closed-door pharmacies in Arizona that are
12 turning around and shipping to Kentucky, right?

13 MR. PYSER: Object to form.

14 A. I don't know. I was -- I wasn't
15 involved in the matter.

16 Q. And then in 2007, you get pulled
17 into this new position?

18 A. Yes.

19 Q. In reaction to what?

20 A. The immediate suspension orders.

21 Q. The immediate suspension orders.

22 The lack of being proactive,
23 because there was meetings going on with the DEA
24 all the way back in 2005 warning them about

1 Internet pharmacies, which was the main issue in
2 the immediate suspension orders in 2007, wasn't
3 it?

4 MR. PYSER: Object to form.

5 Q. Do you know?

6 A. That's a long statement you just
7 made. What -- I need to hear your question so I
8 can answer you.

9 Q. Sure.

10 You said that you didn't agree
11 that regulatory wasn't proactive. Proactive
12 would entail taking steps before being forced
13 to, right? Reacting, acting in advance of,
14 correct?

15 A. If you're asking me if we were not
16 reactive, this was prior to my time, and what
17 I've stated to you is that this is a budget
18 discussion, and as you look at it, this might be
19 the appropriate -- this might be a -- Gary
20 Dolch's prep meeting. I have no idea what was
21 originally -- which was finally presented, if
22 what I'm looking at here is a document.

23 So I can't answer you on it. I
24 don't have knowledge of where they were or where

1 they weren't.

2 Q. Okay. So what we can agree to is
3 that QRA indicates on this slide that it keeps
4 us, Cardinal, out of trouble, but is not very
5 proactive or innovative. That's what it says,
6 isn't it?

7 A. That's what it says.

8 Q. Okay. The next point -- let's go
9 down to -- yeah, the next one, "Site level
10 measurements and incentives can hinder
11 investment and quality."

12 That's also a concern that -- at
13 least they were having at this point in time,
14 right?

15 A. That's what they said.

16 Q. Okay. Now, you made a good point,
17 Mr. Hartman. You said, look, this may have just
18 been at this one time, this big reorganization.

19 Were you ever shown anything to
20 indicate this same problem between 2005 and the
21 time you came into the position? Did anybody
22 ever share anything with you that would indicate
23 this is a systemic problem, a problem with the
24 entire system?

1 A. In my roles, I don't recall
2 conversation -- a conversation around -- or
3 conversations around regulatory in my time
4 period.

5 Q. So let's go to 36- -- or excuse
6 me. 3868.

7 A. Oh, another document?

8 Q. Yes, sir.

9 - - -

10 (Cardinal-Hartman Exhibit 9 marked.)

11 - - -

12 MR. FULLER: What number am I up
13 to?

14 MS. SHIVERS: This is 9.

15 MR. FULLER: This is going to be
16 Plaintiff's Exhibit Number 9.

17 MR. PYSER: Counsel, do you have
18 another copy of Exhibit 9?

19 MR. FULLER: I'm sure we do.

20 MS. SHIVERS: No.

21 MR. FULLER: That's the only one
22 we have, I think. See if we have
23 another one. We'll check.

24 MR. PYSER: Well, as you were

1 pointing out earlier, the depo protocol
2 requires certain things. One of them is
3 that you have a copy for counsel.

4 MR. FULLER: Sure. Why don't we
5 go ahead and take our lunch break now,
6 and we'll go make copies.

7 MR. PYSER: That's fine.

8 THE VIDEOGRAPHER: The time is now
9 12:18. Going off the record.

10 - - -

11 Thereupon, at 12:18 p.m. a lunch
12 recess was taken until 1:23 p.m.

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1 Thursday Afternoon Session
November 15, 2018
2 1:23 p.m.

3 - - -

4 THE VIDEOGRAPHER: The time is now
5 1:23. Back on the record.

6 CROSS-EXAMINATION (CONT'D.)

7 BY MR. FULLER:

8 Q. All right, Mr. Hartman. Before we
9 took the lunch break, we were talking a little
10 bit about the staffing issues and the regulatory
11 department. I think, just so it's clear, we
12 looked previously at the 2005 time frame; is
13 that correct?

14 A. Yes.

15 Q. Okay. I'll provide you with 3868.
16 I'll provide it to your counsel, and he can pass
17 it out.

18 Had you seen this document before
19 today?

20 A. I don't recall seeing it, and --

21 Q. So you --

22 A. I don't recall seeing this
23 document. Yeah, this is prior to my time, I
24 think.

1 Q. Fair enough.

2 So you have no recollection and no
3 one showed you this document before today,
4 correct?

5 A. No.

6 Q. Fair enough.

7 So this is --

8 MR. FULLER: What number is it?

9 Did we give it a number yet?

10 MS. SHIVERS: It's 9.

11 BY MR. FULLER:

12 Q. Okay. This is Plaintiff's 3868,
13 but, Mr. Hartman, for the purposes of the
14 deposition, it's going to be Exhibit 9. Now, at
15 the top of this document, it indicates that it's
16 the Drug Distribution Compliance Budget Review,
17 Fiscal Year 2007.

18 Do you see that there?

19 A. Yes.

20 Q. And so this is a fiscal year 2007,
21 which is going to start in July of 2006,
22 correct?

23 A. I think we can assume that, right.

24 Q. Okay. So this may be sometime,

1 like we talked about earlier, the budgetary
2 process in the first part of 2006 before the
3 budget becomes active in July?

4 A. Sure.

5 Q. Okay. And this talks about it's
6 the Department Budget Highlights/Assumptions -
7 Bullet Point, budgetary variance from forecast,
8 new hires, organizational chart, expenses, '07
9 budget trend, and the actual/forecast trend from
10 2006; is that correct?

11 A. Yes.

12 Q. Okay. So, for example, this would
13 be part of the process you would have gone
14 through after you arrived in December of 2007.
15 You would have went through that process
16 sometime in the first part of 2008; is that
17 fair?

18 A. Yes, I would have --

19 Q. Okay.

20 A. -- in some regard.

21 Q. So let's turn to the next page.

22 You see the budgetary -- or excuse me --

23 "Compliance Budget Review, Fiscal Budget
24 Highlights and Assumptions."

1 Do you see that there?

2 A. I see it, yes.

3 Q. And it has "Director,

4 Quality & Regulatory Affairs."

5 Can you read that first sentence

6 in that section for us aloud, please.

7 A. "Current department staff work --

8 current department staff workloads are at full

9 capacity."

10 Q. Full capacity. That would lead

11 one to believe that the staff that it is there

12 is being used to the fullest extent possible,

13 correct?

14 Is that what that generally means?

15 A. Full capacity means you're working

16 just like we always work in every job we've got.

17 Q. Fair enough.

18 Read the next sentence for us.

19 A. "Effective management" -- okay.

20 "Effective management of current projects and

21 initiatives is difficult."

22 Q. Difficult.

23 And then let's go on. So, so far

24 compliance department has told us that their

1 full capacity and effective management for
2 current projects is -- and initiatives is
3 difficult. But then read the next sentence.

4 A. "Resources to take on new
5 initiatives and the ability to improve and
6 enhance existing programs are lacking."

7 Q. Lacking. Lacking resources.

8 Now, let's back up for a second,
9 because we saw similar concerns voiced in 2005,
10 correct?

11 A. We saw that.

12 Q. By the regulatory department?

13 A. Yes.

14 Q. And there may have been some
15 reorganization that you pointed on going on back
16 then.

17 A. Yes.

18 Q. Now we're 2006 looking for the
19 2007 budget, right?

20 A. Yes.

21 Q. And we're seeing the same kind of
22 lack of resource concerns, are we not, being
23 voiced by the compliance department?

24 A. I wasn't there. I don't --

1 Q. That's what it says, isn't it?

2 A. Again, I can't -- I can't tie
3 those two documents together as to what the
4 issues are and what they're doing.

5 Q. I'm not asking you to tie them
6 together. I'm just asking you what compliance
7 department is telling the budgetary people is
8 that they need more resources. The resources
9 they have for existing programs is lacking;
10 isn't that what they're saying?

11 MR. PYSER: Object to form. Calls
12 for speculation.

13 A. The only way I can respond to you
14 is that in every budget meeting and budget
15 review, every department made the same kind of
16 comments looking for not only the needs but
17 their wants.

18 Q. And at this point in time, my
19 question is, Mr. Hartman, isn't the compliance
20 department saying they're lacking resources to
21 do the existing programs?

22 A. In this document, that's what this
23 says.

24 Q. And then they say specifically, "A

1 resource is needed to manage EH&S."

2 Do you know what that is?

3 A. Environmental health and safety.

4 Q. The program build-out.

5 A. Did I get that right?

6 Q. I believe so.

7 And let's continue to all the

8 areas that they need resources in.

9 "Standard operating procedure
10 development," right?

11 A. Yes.

12 Q. "Maintenance and document
13 control," correct?

14 A. Yes.

15 Q. "NABP, wholesaler accreditation
16 process," right?

17 A. Yes.

18 Q. "New complex state licensing
19 requirements and to assist in ongoing
20 initiatives, such as pedigree," correct?

21 A. That's what it says.

22 Q. And specifically related to us,
23 "supply chain integrity," right?

24 MR. PYSER: Object to form.

1 A. I --

2 Q. Is that what it says?

3 A. I see that, but I --

4 Q. "Web-based regulatory training and
5 day-to-day management of field activities."

6 That's what they're listing that
7 they need assistance with as far as additional
8 resources, at least according to this document;
9 is that correct?

10 MR. PYSER: Object to form. And
11 please let the witness finish his
12 answer.

13 A. The only comment I wanted to give
14 you, when it says "pedigree" and then "supply
15 chain integrity," at that time those were tied
16 together because that was another fundamental
17 concern, was pharmaceuticals moving over road.

18 And so when we talked about, if I
19 recall correctly, supply chain integrity, that's
20 what that was being referred to, was pedigree,
21 and then how those products would be tracked and
22 traced on the road. It wasn't a requirement at
23 that time, but it appeared to be coming.

24 Q. Fair enough.

1 A. Just to clarify. I think that's
2 what that meant there.

3 Q. And, therefore, regulatory is
4 asking for additional resources to help manage
5 these initiatives and projects, correct?

6 A. I see the comment. Is there
7 another page that's -- of their ask? Because in
8 the budget they then would ask, I presume; the
9 numbers, the head count.

10 Q. Right. But this says specifically
11 a resource is needed, and they list all those
12 topic areas, correct?

13 A. I see what you're saying. Yeah,
14 they're saying the director of quality and
15 regulatory affairs as the new head count.
16 Agreed.

17 Q. Okay. So let's go to page 5.
18 This is, "Organizational Chart,
19 Quality & Regulatory Affairs." Remember I asked
20 you about the makeup of the department when you
21 came in, right?

22 A. Yes.

23 Q. You weren't sure how many people
24 were there. Now, here we can see, Mark Parrish

1 is the president and CEO of PDPS, right?

2 A. Yeah, that's right.

3 Q. What is "PDPS," for the jury?

4 A. Pharmaceutical -- I don't remember
5 the acronym.

6 Q. Distribution and Prescription
7 Supply or something like that?

8 A. You know, I think Mark -- it
9 actually meant something a little different,
10 because he actually was in charge of
11 pharmaceutical and medical, I think.

12 Q. Fair enough.

13 A. The two divisions, so yes. I
14 don't know what it means. I can't remember the
15 acronym.

16 Q. So he's the head honcho of
17 whatever this division is, PDPS, correct?

18 A. That's right.

19 Q. So under him we have Mr. Reardon,
20 correct?

21 A. Yes.

22 Q. And he was in regulatory when you
23 arrived in December of '07; isn't that fair?

24 A. Yes.

1 Q. So we know we have Mr. Reardon,
2 and then we have Kristeen Nicholson-Miller is
3 another person in this organizational structure,
4 but she's an administrative assistant, correct?

5 A. Yes.

6 Q. And by "administrative
7 assistant" -- I don't mean to demean the role,
8 because it's a very important role, but we're
9 not talking about someone that goes out and
10 performs regulatory functions, correct?

11 A. Generally that's not how I use
12 mine, but, yes, I -- that may be true in this
13 case. You'll have to ask Mr. Reardon about it.

14 Q. Fair enough.

15 And then the third employee we
16 have is Mr. Brantley, correct, as a manager?

17 A. Yes.

18 Q. And we have two more, Don Bennett
19 and Elaine Trautman --

20 A. Yeah.

21 Q. -- both as managers. And it
22 appears they're searching or asking for at least
23 positions.

24 A. I see that.

1 Q. So at least at this time, in '06,
2 in our QRA department we have -- and we'll give
3 credit for administrative assistant. We have
4 five people, at least according to this
5 corporate structure, don't we?

6 MR. PYSER: Object to form. Calls
7 for speculation.

8 A. Okay.

9 Q. I mean, do you have any
10 information to disagree with this? Do you know
11 something else?

12 A. The only -- I don't think -- I
13 don't think I do, but I know there were field
14 compliance people. I don't know where they
15 reported. If they didn't report to Steve, then
16 they would probably work hand-in-hand with his
17 department.

18 Q. Fair enough.

19 A. I don't know that's fact. I'm
20 just saying as I recall.

21 Q. But we can at least say within the
22 corporate offices, this is the QRA team --

23 A. Yes.

24 Q. -- during this time frame at

1 least?

2 A. Yes.

3 Q. And this QRA team is responsible
4 for the 27 distribution centers in overseeing
5 compliance with all 27 distribution centers,
6 correct?

7 A. If that's the number at the time,
8 then that would be right.

9 Q. Okay.

10 A. I don't remember the exact number
11 of distribution centers we had.

12 Q. And these distribution centers are
13 spread across the country, aren't they?

14 A. Yes.

15 Q. From Washington state -- I think
16 it's Auburn in Washington state, correct?

17 A. Yes.

18 Q. All the way down to Lakeland,
19 Florida?

20 A. Yes.

21 Q. Let's go to the next page. And
22 let's start at the top again.

23 This appears to be a budget for
24 the compliance department; is that right? It

1 says, "Region/Department: Compliance."

2 A. Yep, that's what it looks like.

3 Q. It says, "Forecast '06" -- excuse
4 me. "Fiscal year '06 forecast (actuals through
5 March 31, '06)."

6 Do you see that there?

7 A. Yes.

8 Q. And that would be consistent with
9 what we talked about earlier as to when they
10 would be preparing for the '07 budget, correct?

11 A. Yes.

12 Q. Sometime in the first half of
13 2006?

14 A. Yeah.

15 Q. And let's go through and look at
16 this for just a moment. If we go down to the
17 fiscal year unusualls for '07.

18 Do you see that section?

19 A. Yes.

20 Q. And we drop down to the first
21 segment under there, "Additional travel for new
22 FTEs."

23 What are "FTEs"?

24 A. Full-time employees.

1 Q. We also have -- let's see.

2 "Relocation for new director."

3 Do you see that second one?

4 A. I do.

5 Q. So this budget includes adding
6 those new employees in that they're requesting,
7 correct?

8 A. Yes, looks like that.

9 Q. What -- according to this, what is
10 the ask from compliance for 2007 fiscal year?

11 A. Are you asking me what this budget
12 was asking for?

13 Q. Yes, sir.

14 A. It appears to be \$997,000.

15 Q. So less than a million dollars is
16 what compliance is asking for for their entire
17 corporate department, correct?

18 A. Well, I mean, we tend to --

19 MR. PYSER: Object to form.

20 A. We tend to round. I mean, a
21 million dollars would probably be --

22 Q. We'll say a million dollars. Fair
23 enough?

24 A. Okay. Let's say that.

1 Q. Okay. A million dollars.

2 Now, you know that shortly after
3 this, you prepared a PowerPoint presentation
4 which represents that Cardinal was making,
5 generating revenue of \$87 billion, correct?

6 A. Ask me that again. Did you say I?

7 Q. Yes. Let's back up.

8 You know that Cardinal generates
9 revenue in the billions of dollars, correct?

10 A. Yes.

11 Q. And if documents indicated that
12 revenue was around \$87 billion, you wouldn't
13 have any reason to dispute that, would you?

14 A. No.

15 Q. Do you know what percentage a
16 million dollars makes of 87 billion?

17 A. Well, I'd need to do the math, but
18 it's a -- it's a small percentage.

19 Q. A very small fraction of a
20 percentage point, right?

21 A. That's what it is.

22 Q. How does that -- and let me ask.

23 Do you have any idea what the
24 sales team's budget was?

1 A. I have no idea.

2 Q. So Mr. Lanctot -- do you know
3 Mr. Lanctot?

4 A. It doesn't ring a bell.

5 Q. Regional sales manager for the
6 central United States?

7 A. I don't recall him. I might know
8 him. I might have met him. I don't recall him.

9 Q. So you -- he testified that he had
10 a sales force of over 100 persons.

11 A. Okay.

12 Q. For the center of the United
13 States.

14 A. Okay.

15 Q. And that there was an east and a
16 west.

17 Fair to say sales budget is going
18 to be far in excess of a million dollars, isn't
19 it?

20 MR. PYSER: Object to form.

21 Q. Just based on the number of
22 employees alone.

23 A. Yes.

24 Q. Without question, right?

1 A. Yes.

2 Q. This budget, if you were coming in
3 during this time frame, wouldn't be sufficient
4 for you, would it?

5 MR. PYSER: Object to form. Calls
6 for speculation.

7 A. I don't know. I wasn't there. I
8 wasn't in the department.

9 Q. Well, you --

10 A. When I took it over, I've already
11 told you what I did.

12 Q. And let's back up.

13 You were there at Cardinal during
14 this time?

15 A. I was, yes.

16 Q. You just weren't in the regulatory
17 or compliance department?

18 A. That's right.

19 Q. So let's go to what you did do.
20 Let's go to 3874.

21 - - -

22 (Cardinal-Hartman Exhibit 10 marked.)

23 - - -

24

1 BY MR. FULLER:

2 Q. And, again, you'll have the hard
3 copy, and it will be in front of you.

4 The initial e-mail here is
5 "Anti-Diversion."

6 Do you see that, the subject line?

7 A. Yes.

8 Q. And it's from a Michele Conway?

9 A. Yes.

10 Q. January 11, 2008, shortly after
11 you joined the division, right?

12 A. Yes.

13 Q. And who is Michele Conway?

14 A. Michele was a financial manager, I
15 believe, at the time.

16 Q. And who is Brian -- is it Bonnell?

17 A. Yes, Brian Bonnell.

18 Q. Who is he?

19 A. I believe he was Michele's
20 superior, finance department.

21 Q. Okay. And Michele -- or excuse
22 me. Yeah, Michele is writing to Brian in the
23 initial e-mail, indicating that you guys had
24 met?

1 A. Okay.

2 Q. Is that correct?

3 A. I don't recall it, but I'm sure we
4 did.

5 Q. She says, "I met with Mark." I'm
6 assuming it's you because you're the only one --
7 other one on the e-mail chain, correct?

8 A. Yes.

9 Q. And it says, "I -- and gained
10 greater understanding of increased CAH staffing
11 and supply chain integrity and anti-diversion
12 department," right?

13 A. Okay.

14 Q. And if we go down to the parts
15 that she's clarifying. She says, "Two points,"
16 and read the first point to us, Mr. Hartman,
17 where it starts "Field QRA."

18 A. "Field QRA realignment to ensure a
19 full-time QRA person in every DC (22 DCs, NLC,
20 and ParMed). Currently there are 12 full-time,
21 FT, positions already filled and 12 areas where
22 there are people partially filling those roles
23 which will need to be converted to full-time
24 roles."

1 Q. And that's something that you set
2 out to do when you came into this division; is
3 that correct?

4 A. Yes.

5 Q. You wanted full-time people at
6 each one of the distribution centers?

7 A. Correct.

8 Q. You felt that that was important
9 and that's what needed to be done to effectively
10 manage the compliance role, right?

11 A. Yes.

12 Q. And this is where I think we get
13 to Mr. Moné. Read the next bullet for us.

14 A. "Creation of anti-diversion
15 department that will be headed by Michael Moné,
16 VP, currently staffed with one director,
17 E. Brantley, and two investigators. The future
18 state of this department in the very near term
19 is to have two directors and six investigators.
20 Eric Brantley will not assume one of the
21 director roles but will move into a role
22 supporting NYIG-related items. Mark and his
23 admin will be part of this group. The total
24 projected head count for anti-diversion

1 department is 12."

2 Q. So you're taking it from three to
3 twelve in the anti-diversion department, at
4 least according to this e-mail?

5 A. Yeah. I think the number -- I
6 think those numbers are right.

7 Q. Because prior to you stepping in
8 and getting involved, it appears, for however
9 long anti-diversion was around, that there was
10 one director, Mr. Brantley, correct?

11 It's right on that e-mail.

12 A. What was -- was that his role --
13 you showed me the prior document. Is that from
14 where you saw Eric's name?

15 Q. No, sir. If you look at the
16 e-mail you just read.

17 A. Yeah. Okay.

18 Q. It says, "Currently staffed with
19 one director, E. Brantley."

20 A. Okay. I gotcha.

21 Yes.

22 Q. And two investigators?

23 A. Yes.

24 Q. So you increased it by fourfold

1 coming into this department, right?

2 A. It looks like it.

3 Q. And is, again, that because you
4 felt that was what was necessary to be able to
5 monitor compliance through all these
6 distribution centers?

7 A. Yeah. As I came into role, I
8 was -- and understanding as I got into role
9 these immediate suspensions, what we needed to
10 do, the changes that had come from the DEA and
11 what we needed to do in order to accommodate
12 those changes, yes, I was out to staff this with
13 more people.

14 Q. Now, we talked about the situation
15 on changes, and we're not going to revisit that
16 because I think we made that clear. But you
17 were envisioning, when you came into this
18 department, fixing it to the point that you
19 could feel comfortable that proper compliance
20 was being maintained; is that right?

21 A. I came into the role under some
22 pretty tenuous circumstances that Cardinal had
23 been issued the suspensions.

24 Q. Three suspensions, right?

1 A. It was three suspensions.

2 Q. And another Order to Show Cause?

3 A. That's right.

4 Q. And it was voluntarily given up?

5 A. In January of 2008 --

6 Q. And then a fine as well?

7 A. Houston --

8 MR. PYSER: Counsel, let him
9 finish his answer before you ask another
10 question.

11 MR. FULLER: Sure. I apologize.

12 BY MR. FULLER:

13 Q. Go ahead.

14 A. Okay. What -- the fine you're
15 talking about is from when? What fine were you
16 mentioning just now?

17 Q. The DEA investigation related to
18 the suspensions.

19 A. So later in 2008, when we had a
20 settlement? Okay. Let me come back to -- I'm
21 sorry. What was I commenting on? You threw me
22 on the fine.

23 Q. No, no, no. You're fine. I
24 apologize. It's my fault.

1 So in any case, you basically
2 supersized the compliance department when you
3 came into it?

4 A. I increased it to what I wanted,
5 not only needed.

6 Q. Okay. We talked earlier -- I
7 believe the testimony is clear -- that you
8 didn't go in there just asking for stuff that
9 you didn't need?

10 A. Anything I asked for, we had
11 looked at, figured out what was necessary for us
12 to do, and anything that -- as I've commented to
13 you on budgeting, if I wanted it, I got it.

14 Q. In actuality, you needed more than
15 what was actually given to you.

16 Let's go to 3896.

17 Do you remember about your
18 employees complaining about having to work
19 nights, weekends, as well as days?

20 A. In what time period? Because
21 every group I've ever had, we would complain
22 about those things, including myself.

23 Q. This time period. This time
24 period.

1 A. Sure. Yeah.

2 - - -

3 (Cardinal-Hartman Exhibit 11 marked.)

4 - - -

5 BY MR. FULLER:

6 Q. Who's Steven Lawrence?

7 A. Let's see.

8 So this is January 28th of 2008.

9 Q. I think it's actually -- the
10 e-mail from Mr. Lawrence is January 26th. Then
11 at the bottom of that first page.

12 You've got a different document.

13 MS. QUEZON: What exhibit are we
14 on, Mike? Is that 11? 3896?

15 MR. FULLER: Yeah.

16 Can I get that back? That's the
17 number I have. Is that the same one?

18 (Discussion held off the record.)

19 MR. FULLER: Oh, you got the
20 invoice and stuff too. I'm not worried
21 about that. There you go. Sorry about
22 that.

23 MS. QUEZON: What exhibit are we
24 on? Is it 11?

1 MS. VELDMAN: It is 11, yeah.

2 MR. FULLER: Thank you.

3 So this would be Plaintiff's
4 Exhibit Number 11. Is it still bottom
5 of the first page? It is, right? Yeah.

6 MS. VELDMAN: That's what you
7 want?

8 MR. FULLER: Yeah.

9 BY MR. FULLER:

10 Q. I'm sorry, Mr. Hartman.

11 Bottom of the first page, I think,
12 begins the e-mail chain; is that right?

13 A. Yes, it looks like that. Yes.

14 Q. And that's from Steven Lawrence?

15 A. Okay. Yes.

16 Q. And I think you said January 28th,
17 but I want to make sure the record is clear.

18 It's Saturday, January 26th --

19 A. I see that.

20 Q. -- 2008.

21 A. I see that.

22 Q. And this is after you've come into
23 this department. Like you mentioned earlier,
24 you've been there six weeks, correct?

1 A. Yes, yes.

2 Q. And Mr. Lawrence. Who is
3 Steven Lawrence?

4 A. At this time -- well, you know,
5 Steve was on the pharmaceutical side of
6 business, and I -- I'm recalling at this time
7 period, he was the -- I don't know title. He
8 was the marketing -- marketing guy. Probably
9 SVP. Might have been VP, SVP. I don't -- I
10 don't recall his role during this time period.

11 Q. All right. And this e-mail is
12 going to a whole bunch of different groups,
13 correct? GNSA retail?

14 A. Yes. A lot of people.

15 Q. Managers, sales managers, so forth
16 and so on?

17 A. Yes.

18 Q. And cc'd to yourself, Mr. Moné?

19 A. Yes.

20 Q. Todd Cameron, Thomas -- how do you
21 pronounce it?

22 A. Todd Cameron, Mark Hartman,
23 Tom DeGemmis.

24 Q. DeGemmis.

1 And read the subject for us.

2 A. "Threshold system and customer
3 issues - Detailed summary, so I apologize for
4 the lengthy e-mail."

5 Q. So if you turn to the second page.

6 A. Okay.

7 Q. And the second paragraph there,
8 Mr. Lawrence says, "We currently are working
9 very hard to staff up our QRA group. Please
10 understand that we are working day, night,
11 weekends, but they have been understaffed, and
12 Mark Hartman is working hard to get the
13 situation rectified."

14 Right?

15 A. That's what it says.

16 Q. Do you remember the staff having
17 to work day, night, and weekends to try to keep
18 up at this point in time?

19 A. We were all working -- we worked a
20 lot of hours. I don't remember the --

21 Q. You don't recall this
22 specifically?

23 A. Right.

24 Q. But you recall this time being

1 very challenging?

2 A. Yes, we -- well, with three
3 immediate suspension orders, I guess we're still
4 yet to see the Houston situation. Yeah, we were
5 working very, very hard in a lot of fronts.

6 Q. And your focus at that point was
7 compliance; am I right?

8 A. Yes. Compliance with the DEA
9 guidelines that we were now operating under.

10 Q. Now, you say "compliance with the
11 new DEA guidelines." We saw the regulations.
12 The regulations hadn't changed in over 30 years,
13 40 years, right?

14 A. That's what we talked about.

15 Q. We looked at the CSA?

16 A. Yes.

17 Q. And we looked at the regulation as
18 a subpart of the Controlled Substances Act,
19 right?

20 A. Right.

21 Q. Those have been consistent through
22 time and are still in place today, as far as you
23 know?

24 A. Those regulations were consistent.

1 Which wasn't consistent was the DEA conditions,
2 because as I had commented to you -- you're
3 drawing on your chart there. What changed in
4 that is I came on board. The number one thing
5 that we would talk about was that we could not
6 ship a suspicious order, and that was one of the
7 biggest changes that came out of the DEA prior
8 to my time.

9 Because Cardinal had been meeting
10 the guidelines, requirements of the DEA in the
11 reports that they had put in, and that's what I
12 came to understand. And one of the elements of
13 a big world that we had to work on and fix that
14 happened was in that time period, with those
15 same regulations, to your point, that I
16 understand didn't change. The guidelines
17 changed.

18 Q. So -- well, we can agree to
19 disagree on some things, Mr. Hartman.

20 But you're saying that when you
21 came in, you had to design a system that halted
22 suspicious orders. Is that what you're telling
23 the jury?

24 MR. PYSER: Object to form.

1 Q. That would not allow a suspicious
2 order to be shipped?

3 A. I improved a system to identify
4 suspicious orders, and now -- and now, as the
5 team explained it to me -- and now we could not
6 ship that order.

7 Q. And "now" as of when? As of
8 December?

9 A. December of 2007 when I stepped
10 into role.

11 Q. So that was a new --

12 A. That's how I understood it.

13 Q. That's -- and is it your
14 understanding that prior to that point in time,
15 Cardinal was shipping suspicious orders?

16 A. I -- well, what I know -- again --

17 Q. I'm just asking you, yes or no,
18 prior to that point in time, was Cardinal
19 shipping suspicious orders, if you know?

20 MR. PYSER: Object to form.

21 A. What limited amount I know is that
22 Cardinal was responding to the DEA with specific
23 reports that were at the end of month, and I do
24 know that DEA -- that Cardinal employees were in

1 touch with DEA, and I know that those orders
2 were shipped, because the requirement was an
3 end-of-month report. There was -- there wasn't
4 another requirement on that.

5 So when you say, "Was it a
6 suspicious order shipped," I don't know that,
7 but it could be, because it was -- it was -- it
8 was an end-of-month report, was the requirement.
9 That's what I know of that system.

10 MR. FULLER: So let's pull back up
11 4915.

12 BY MR. FULLER:

13 Q. So, Mr. Hartman, this is the
14 regulation --

15 MR. PYSER: Do you want to give
16 him the exhibit number so he can find it
17 as well.

18 Q. 4915. P5, Number 5.

19 Do you have that in front of you,
20 Mr. Hartman? It's also on the screen.

21 A. Yep.

22 Q. So point to the jury to where that
23 regulation says that you can monthly report
24 suspicious orders.

1 MR. PYSER: Object to form.

2 MR. FULLER: No, it's not 16.

3 It's 15, please. No, no, no -- yes, I

4 want the suspicious order requirement.

5 It's 4915. Thank you.

6 MR. PYSER: Then you've given the

7 witness the wrong exhibit number.

8 Q. Four.

9 So, Mr. Hartman, I want you to

10 explain to the jury where it says that we can

11 delay reporting suspicious orders to the end of

12 the month. Where does this regulation say that?

13 MR. PYSER: Object to form.

14 A. I'm not the expert in this.

15 MR. FULLER: I've got the -- thank

16 you.

17 BY MR. FULLER:

18 Q. Again, and we'll solidify that you

19 are not the expert in anti-diversion or supply

20 chain integrity, correct?

21 A. Never tried to be and haven't been

22 an expert in any role I've had. I lead

23 organizations and we take on the work that we

24 have to do and we do it well.

1 Q. Now, Mr. Hartman, just yes or no.
2 Are you a expert in supply chain integrity or
3 anti-diversion?

4 MR. PYSER: You can answer the
5 question as you'd like.

6 Q. Yes or no.

7 A. I would not label myself as an
8 expert.

9 Q. Fair enough.

10 A. Nor have I in any job I've ever
11 had.

12 Q. So does this regulation indicate
13 that you can delay reporting or does it say that
14 it has to be reported when discovered?

15 MR. PYSER: Object to form. Legal
16 conclusion.

17 A. All I'm telling you, at the time
18 when I stepped into role, what I came to
19 understand were the changes that were made by
20 the DEA, and we were operating with DEA guidance
21 prior to my time, according to my team and those
22 that were there, and that's what they told me
23 about in December of 2007 was one of the major
24 changes that we had to address.

1 Q. What DEA guidance are you
2 referring to?

3 Are you sure? Did you
4 double-check your team?

5 MR. PYSER: Object to form.

6 Q. Did you double-check your team,
7 Mr. Hartman?

8 A. I don't recall.

9 Q. Did you call the DEA and ask them
10 yourself?

11 A. Many times. I tried to -- I tried
12 to talk to them, and I know my team did talk to
13 them.

14 Q. Who -- who did you call at DEA?

15 A. Let's see. The names that I
16 recall are Larry Cody, was the principal
17 attorney that Cardinal worked with at the DEA.
18 I think his supervisor was Linden Barber. There
19 were --

20 Q. Who now works for Cardinal, right?

21 MR. PYSER: Object to form.

22 Q. No, McKesson. No, Cardinal.

23 Do you know if he works for
24 Cardinal now?

1 MR. PYSER: Please allow the
2 witness to finish his answer before you
3 cut him off. It keeps happening. You
4 got to let him finish his answer.

5 MR. FULLER: He's got to answer
6 the question being asked, too.

7 A. I'm aware of that.

8 Q. Okay.

9 A. And there were a couple -- I'm
10 trying to answer the last question.

11 Q. I'll strike it.

12 So were you provided with the
13 letters from the DEA when you came into your
14 role that set out what they expected?

15 A. I reviewed the ones that were
16 earlier from my -- before my time frame.

17 Q. Okay. You reviewed those?

18 A. Well, yeah, I read through them,
19 but then there was another one that came pretty
20 soon after I was in role.

21 Q. Fair enough. So let's go to 4050.

22 - - -

23 (Cardinal-Hartman Exhibit 12 marked.)

24 - - -

1 BY MR. FULLER:

2 Q. And if you'll turn to the second
3 page.

4 MR. PYSER: What exhibit number
5 are we on?

6 MS. SHIVERS: It's 12.

7 MR. PYSER: Thank you.

8 BY MR. FULLER:

9 Q. This is Joe Rannazzisi's letter to
10 all the wholesale distributors, September of
11 2006.

12 Do you see that?

13 A. I see it.

14 Q. This would have been one of those
15 that you reviewed, correct?

16 A. It certainly would have. I -- I'm
17 sure I did.

18 Q. This was sent to the Lakeland
19 facility distribution center.

20 Do you see that?

21 A. Yes. I see it.

22 Q. It's a distribution center
23 Cardinal owned. It's one that got its license
24 suspended twice over the past decade, correct?

1 A. I believe that's right.

2 Q. So if you'll turn to page 3.

3 And do you see in the middle of
4 the page where it talks about, "The DEA
5 regulations require all distributors to report
6 suspicious orders of controlled substances."

7 Do you see that, Mr. Hartman?

8 A. Counsel, I see it on the screen.

9 MR. PYSER: Counsel, I think
10 there's some confusion. You're saying,
11 page 3 using 4050.3. The witness may be
12 on the third page of the document.

13 Q. Page 3, upper right-hand corner,
14 Mr. Hartman.

15 MR. PYSER: Use the right-hand
16 corner so we're all on the same page.

17 A. Okay.

18 Q. You've got the page now?

19 A. Ask me the question because I
20 wasn't finding the comment that you were talking
21 about. DEA --

22 Q. Let me see. Yes, you're on the --
23 so in the upper right-hand corner you're at
24 4050.3 now, right?

1 A. I see it.

2 Q. Is that correct? You're on the
3 right page?

4 A. Yes.

5 Q. Okay. So do you see there,
6 Mr. Hartman, where the DEA -- it says, "The DEA
7 regulations require all distributors to report
8 suspicious orders of controlled substances"?

9 Did I read that correctly?

10 A. Yes.

11 Q. And then it says, "Specifically
12 the regulation states," and it cites 21 C.F.R.
13 1301.74(b), which is the same exact regulation
14 that we've already looked at, correct?

15 A. It looks that way.

16 Q. And then it says, what we already
17 established, does it not, that it bears emphasis
18 that, "The foregoing reporting requirement is in
19 addition to and not lieu of the general
20 requirement under 21 U.S.C." -- which is the
21 United States Code we looked at earlier,
22 823(e) -- "that a distributor maintain effective
23 controls against diversion," doesn't it?

24 Isn't that what it says,

1 Mr. Hartman?

2 A. That's what it says.

3 Q. And read the next sentence aloud

4 to us.

5 A. Where are you?

6 Q. "Thus, in addition to."

7 A. "Thus, in addition to reporting
8 all suspicious orders, a distributor has a
9 statutory responsibility to exercise due
10 diligence to avoid filling suspicious orders
11 that might be diverted into other than
12 legitimate medical, scientific, and industrial
13 channels."

14 Q. You have to do your due diligence
15 or not ship your suspicious order; isn't that
16 what it's saying, Mr. Hartman?

17 MR. PYSER: Object to form.

18 A. I'd have to review the whole
19 document. I mean, this is before my time. I
20 just told you, what I focused on when I went
21 into the role in December of 2007, that one of
22 the major changes that we had to address was the
23 not ship component.

24 Q. Right. And you also said that you

1 reviewed the earlier letters, which this was,
2 from the DEA and that it was a -- your people,
3 your people, told you it was a new requirement
4 that you understood in December of 2007, a new
5 guidance by the DEA, which is set out in this
6 letter sent in September of 2006 --

7 MR. PYSER: Object to form.

8 Q. -- right?

9 MR. PYSER: Object to form.

10 Misstates the testimony.

11 A. It said it was sent in 2006.

12 Q. You don't dispute that, do you?

13 A. No.

14 Q. If it was sent in 2006 and
15 Cardinal received it in 2006, in September, they
16 knew then that they shouldn't be -- if they
17 didn't know it before, shouldn't be shipping
18 suspicious orders; we can agree with that, can't
19 we?

20 MR. PYSER: Object to form.

21 A. I wasn't there. I don't know what
22 the --

23 Q. You were there. You were at
24 Cardinal during this time.

1 A. I wasn't in the department.

2 Q. If this letter was sent to
3 Cardinal, doesn't this give them the warning
4 they need?

5 MR. PYSER: Object to form.

6 A. I wasn't in the department. I
7 didn't receive the letter at that time.

8 Q. I'm not asking you if you did.
9 I'm asking you to use common sense. And does
10 this letter tell them exactly what you said they
11 weren't told about until December of 2007?

12 MR. PYSER: Object to form.

13 Argumentative. Asked and answered.

14 A. Better answered by those that were
15 in place. I don't have an opinion on it.

16 Q. I'm not asking those that were in
17 place. I'm asking you, because you've testified
18 the regulations or guidance changed. You
19 testified that Cardinal didn't know about it
20 until December 2007?

21 A. I did not say "didn't know about
22 it." I said that was one of the major
23 requirements that we had to address.

24 Q. And you testified that your people

1 told you that it was new as of December 2007.

2 The record will speak for itself.

3 I want to know --

4 A. It was new to me.

5 MR. PYSER: Object to form.

6 Q. Well, of course it was.

7 MR. PYSER: Object to form. Give

8 me a chance to object. Object to form.

9 Misstates testimony.

10 Q. So you don't think this letter of

11 2006 from September puts Cardinal on notice?

12 MR. PYSER: Object to form. Calls

13 for a legal conclusion.

14 A. I don't know what the regulatory

15 department was doing at that time. So I don't

16 know what their reaction to it was or what was

17 discussed or what they did.

18 Q. Well, they weren't doing much

19 because they only had five people.

20 MR. PYSER: Object to form.

21 Argumentative.

22 Q. So my question is, prior to

23 December of 2007, was Cardinal shipping

24 suspicious orders, yes or no, or I don't know?

1 A. Before my time.

2 Q. Do you know?

3 A. I don't know.

4 Q. You don't know whether Cardinal
5 was shipping suspicious orders before your time,
6 even though you came into this department, you
7 looked into all these issues and these different
8 distribution centers where licenses were
9 suspended, and you don't know if they were
10 shipping suspicious orders or not?

11 MR. PYSER: Object to form. Asked
12 and answered.

13 A. Prior to my time. We talked about
14 the environment we were in. We talked about the
15 issues that we had and whether we were
16 calling -- or these accusations were accurate or
17 not. I was brand new in role and trying to
18 figure out how to go forward. That's what I
19 did.

20 Q. And you've testified that you
21 reviewed these guidance letters, these letters
22 from the DEA, right?

23 A. I know I read them at some point
24 in there early in my entry into the role. I

1 don't -- I didn't spend time on them, nor did I
2 try to decipher them, other than to understand,
3 what do we need to do at Cardinal?

4 Q. Absolutely. Absolutely.

5 And the letter tells you what you
6 need to do, right?

7 A. And that's what we would have
8 pulled off of that, put it into a Gantt chart
9 and a format and gone after it.

10 Q. And it says that you need to do
11 due diligence before you ship suspicious orders,
12 and if not, you need to stop them, correct?

13 A. And in my time -- I'm sorry.

14 MR. PYSER: Object to form.

15 Q. Yes or no?

16 A. In my time frame, that's exactly
17 what we went out to do.

18 Q. Should it have been done before
19 your time frame?

20 MR. PYSER: Object to form. Calls
21 for speculation.

22 A. I wasn't in the department. I
23 don't know exactly what was going on and what
24 the guidance was from the DEA, other than the

1 changes that I was made aware of.

2 Q. I'm not asking you what was going
3 on. I'm not asking you whether you were in the
4 department. I'm asking you, should they have
5 been stopping suspicious orders before that time
6 frame?

7 MR. PYSER: Object to form. Calls
8 for a legal conclusion.

9 Q. Yes or no?

10 A. They should have been applying our
11 system to the guidance that we had from the DEA
12 in following that job.

13 Q. That's not my question.

14 My question -- I'm going to ask it
15 one last time -- is, should they have been
16 stopping suspicious orders even prior to the
17 time that you came into the department, yes or
18 no?

19 MR. PYSER: Object to form. Asked
20 and answered.

21 A. Prior to my time, Cardinal Health
22 team, I wasn't in charge of and didn't have
23 involvement with. They were conducting
24 themselves, what they felt and they told me was,

1 according to the DEA guidelines, and that's how
2 they conducted themselves.

3 Q. That's not my question, and I'm
4 going to move on and certify that question, and
5 we'll ask the special commissioner to rule that
6 you have to answer the question I'm asking and
7 not one of your own choosing.

8 MR. FULLER: So with that, we'll
9 take another break.

10 THE VIDEOGRAPHER: The time is now
11 2:10. We're going off the record.

12 (Recess taken.)

13 THE VIDEOGRAPHER: The time is now
14 2:28. Back on the record.

15 MR. PYSER: Addressing the comment
16 from counsel right before the break.
17 Two points. The first one is that
18 Mr. Hartman has been answering the
19 questions, so I think the complaint and
20 the threat to go to the special master
21 is inappropriate.

22 The second, I direct counsel's
23 attention to a discovery dispute between
24 Walmart and the Plaintiffs, dated

1 August 31st, 2018, in a letter Walmart
2 wrote which discussed the very type of
3 testimony that Plaintiffs are seeking
4 here about the interpretation with the
5 Dear Registrant letters from the DEA.

6 And, in particular, Special Master
7 Cohen's ruling dated September 3, 2018,
8 in which Special Master Cohen ruled that
9 Plaintiffs are entitled to obtain
10 testimony regarding compliance with
11 these subtopics, including the letter
12 that Plaintiffs were asking about here.
13 But not regarding past, present
14 interpretation agreement and/or
15 disagreement.

16 We again submit that you're asking
17 for legal conclusions, and Special
18 Master Cohen has already ruled those
19 inappropriate.

20 MR. FULLER: No. Special Master
21 Cohen, in that specific order, has rated
22 it to a 30(b) depo.

23 BY MR. FULLER:

24 Q. Last I checked, you weren't a

1 30(b) designee, were you?

2 A. You'll have to explain that to me.

3 Q. It's above my head, too,

4 sometimes.

5 MR. FULLER: Okay. That's fine.

6 We'll let Mr. Cohen decide it.

7 BY MR. FULLER:

8 Q. So, Mr. Hartman, according to your

9 testimony earlier today, before we took the

10 break, when you came in to the compliance

11 department in December of 2007, you were

12 informed by your specialty experts, subject

13 matter experts, as to what the status of

14 regulatory issues were, correct?

15 A. Yes.

16 Q. And you were informed at that time

17 that there was some sort of new requirement from

18 the DEA that suspicious orders not be shipped?

19 A. That's my recollection.

20 Q. And who -- which of your subject

21 matter experts -- I'm assuming it was either

22 Mr. Moné or Mr. Reardon, that explained that to

23 you?

24 A. I don't recall who it was, but

1 I -- I suspect both were in the room at the same
2 time with, perhaps, other people as we talked
3 about this.

4 Q. So whose purview would that have
5 fell under, because they're two separate
6 departments, right?

7 A. We operate --

8 Q. Supply chain integrity?

9 A. Yes, that's right.

10 Q. And regulatory compliance?

11 A. That's right.

12 Q. So whose purview would that have
13 fallen under?

14 A. In regards to this situation, we
15 were operating as one team at that point. They
16 were running their individual departments. When
17 we met and collaborated, it would have generally
18 been with both Michael Moné and Steve Reardon,
19 and other attendees as well. So I can't answer
20 who all was in the room.

21 But whose purview was it under?
22 In this regards, I suspect it was Steve Reardon
23 explaining to us where they had been and where
24 we were. And Michael Moné, brand-new enroll --

1 well, pretty new enroll, a little before me --

2 Q. Sure.

3 A. -- probably interpreting for me,

4 to help me understand, what do we need to do.

5 And then I set out with, how do we get there?

6 How do we -- how do we start putting the

7 strategy in place and move forward with these

8 guidelines?

9 Q. And when you say it was likely

10 Mr. Reardon, that was because he was regulatory

11 compliance; is that correct?

12 A. Yes.

13 Q. Okay. And you say, how do we get

14 there? The job you were tackling is how to

15 implement a system that would prevent the

16 shipment of suspicious orders?

17 A. How do we improve and build out

18 our system to meet these requirements, on top of

19 the system that was already in place.

20 Q. Right. And the new requirement, I

21 think as you have portrayed it, was the shipping

22 or not shipping of suspicious orders, correct?

23 A. Well, there were many elements of

24 this. There was the Know Your Customer piece

1 and the training that would go along with that.
2 An IT system that we were -- you know, we now
3 needed to build upon and add more analytics to
4 it. So to answer your question, there were
5 several pieces that we immediately set sail on
6 to work on.

7 Q. Right.

8 A. To improve upon.

9 Q. And one of those was not shipping
10 suspicious orders, correct?

11 A. In our system, when we came upon a
12 suspicious order, then to ensure there was -- we
13 did not ship it.

14 Q. Okay. And again, that is part of
15 the new system that you were trying to roll out
16 and implement during this first part of 2008; is
17 that right?

18 MR. PYSER: Object to form.

19 Misstates the testimony.

20 A. Yes.

21 Q. Let's go to 4689.

22 MR. FULLER: Did I get that right?

23 MS. SHIVERS: No.

24 MR. FULLER: 3892. I'm sorry.

1 This is going to be Plaintiff's

2 Exhibit --

3 MS. SHIVERS: 13.

4 MR. FULLER: Yes, Plaintiff's 13.

5 - - -

6 (Cardinal-Hartman Exhibit 13 marked.)

7 - - -

8 BY MR. FULLER:

9 Q. Mr. Hartman, have -- well, this
10 e-mail has your name on it, so I'm assuming
11 you've seen it before, correct?

12 A. I -- sure. I'm sure I have.

13 Q. And you see the subject matter is
14 "UT Presentation"; is that right?

15 A. Yes.

16 Q. It relates to a presentation that
17 you did at the University of Tennessee; is that
18 correct?

19 A. Yes.

20 Q. And if you turn to the next page,
21 I believe it will be page 2. There's the
22 exhibit that was part of that e-mail.

23 Does that look familiar to you?

24 A. Presentation I gave at that time.

1 Q. And what was it that you were
2 doing? This says "Supply Chain Integrity,"
3 right?

4 A. Yeah.

5 Q. And this is dated November 6 of
6 2008. Was that your understanding, the date of
7 the presentation?

8 A. It probably was, but I -- I had
9 May in my mind, like another six or seven months
10 later, but I don't recall when the presentation
11 was given.

12 Q. Okay. Well, at least this
13 document that we've found indicates it's
14 November 6 of 2008 --

15 A. Yes.

16 Q. -- right?

17 A. I see that. Yep.

18 Q. Okay. Now, other than your
19 memory, do you have any other reason to dispute
20 that this presentation at least was given at
21 some point in that time frame?

22 A. I'd have to go through the
23 presentation, but, yeah, it looks like it's the
24 presentation that I delivered at a University of

1 Tennessee meeting of some sort, and I don't
2 recall what it was.

3 Q. Okay. So -- and that was going to
4 be my next question. What kind of meeting was
5 this?

6 A. It was an industry meeting. A lot
7 of concerns around supply chain integrity. So
8 the more focused nuance of this meeting was
9 around shipping of products and so forth, if I
10 recall, and I was talking about, from our
11 perspective, all of the issues that could exist,
12 and I can't remember if I -- I must have talked
13 about like things we were doing and how we were
14 trying to improve upon the system.

15 Q. Sure. Sure.

16 And this was, again, other
17 industry individuals attending this meeting, to
18 the best you can recollect?

19 A. Yes.

20 Q. So if we go to page 3, I think
21 you'll see it indicates there Cardinal Health?

22 A. Yes.

23 Q. It says one of the -- the "Leading
24 provider of products, services and technologies

1 for the healthcare industry/headquartered in
2 Dublin, Ohio."

3 Right?

4 A. Yes.

5 Q. And that's where the headquarters
6 still is today; isn't that true?

7 A. Yes.

8 Q. It says, "No. 19 on the
9 Fortune 500," and "43,500 employees in more than
10 25 countries."

11 Correct?

12 A. That's what it says. That's
13 right.

14 Q. And you believe that information
15 to be true or you wouldn't have put it in the
16 PowerPoint, right?

17 A. Yes.

18 Q. And at this time we know you have
19 maybe quadrupled the size of the regulatory
20 team, at least in corporate, and were up to
21 about 12 or 15, right?

22 A. Well, again, on the anti-diversion
23 team, that's where we were. But as I said, as a
24 department, the regulatory affairs piece and

1 anti-diversion, we were acting pretty closely as
2 one department.

3 Q. Sure.

4 A. And in the regulatory affairs
5 department, we would have had 30-some employees.

6 Q. You think you had 30-some
7 employees in regulatory affairs?

8 A. That's how -- I don't know the
9 exact number. But we had one in every DC as a
10 compliance officer, and then we had our
11 headquarters staff.

12 Q. Okay.

13 A. We had licensing people. We had
14 other folks in the regulatory affairs group, not
15 just working on anti-diversion. So to answer
16 the number, I don't know, but we were operating
17 pretty closely as one team together on our
18 regulatory affair issues.

19 Q. So that 30-plus number that you're
20 referring to, that's counting all the DCs --

21 A. The distribution -- yeah --

22 Q. -- or the individuals that you had
23 out at the individual distribution centers,
24 correct?

1 A. So, again, under anti-diversion,
2 we built out Michael Moné's team. And then the
3 piece that we built under Steve Reardon's team
4 was a compliance officer at each of the
5 facilities.

6 Now, the responsibilities were --
7 while we put them in there was predominantly,
8 out of the blocks, for anti-diversion, but they
9 also were there to support other regulatory
10 affairs in the building -- in the distribution
11 center, I should say.

12 Q. So -- and, again, if we go back
13 just to corporate, we're still looking at maybe
14 20 people, right?

15 A. Well, at corporate?

16 Q. Yes.

17 A. Some number like that.

18 Q. Fair enough.

19 So -- and then you also indicate,
20 "Headquartered in Dublin, Ohio, Cardinal is an
21 \$87 billion global company."

22 87 billion, at least at this time,
23 during 2007, correct?

24 A. That's what it says.

1 Q. And this is your presentation that
2 you gave, right?

3 A. Yeah. I think perspective here
4 is, I also worked for Pepsi-Cola and I ran
5 similar, you know, few billion divisions where
6 our profits were higher than the kind of profits
7 that we earn at Dublin.

8 So, you know, in my world, it was
9 always kind of perspective around how many
10 people do you have, and we had 5,000 employees
11 in the pharmaceutical side of the business. The
12 revenues that we generated was for the whole
13 corporation, not just pharma. They were -- they
14 were the biggest piece. But the employee count
15 was actually probably on the smaller side
16 because you tried to be very, very efficient.

17 So to your point, just to clarify
18 a little bit, a distribution company has
19 incredibly thin margins. So when we use the
20 revenue number in these aspects, the reality is,
21 that's to kind of show our size, but it's really
22 about the profit side, which is much thinner.

23 Q. What you put in your presentation
24 is that you're a \$87 billion company with over

1 40,000 employees, right?

2 A. To present to these people on the
3 whole Cardinal Health, not just pharmaceutical.

4 Q. Absolutely. Top to bottom.
5 That's what's all included, and that's how much
6 money we generate?

7 A. Yes, that's right. That's how
8 much we -- how much revenue that we take in.

9 Q. How much money we generate, right?
10 How much we bring in?

11 A. And then you got to add in, when
12 you talk about these scenarios in a business
13 context, you have to talk about what's the
14 profitability of an organization.

15 Q. When you were giving this
16 presentation, did you talk about the
17 profitability?

18 A. In this one, I didn't.

19 Q. Okay. Let's go to page 4.

20 A. At least in -- I don't think I
21 did.

22 Q. I wasn't there. I didn't get the
23 invite.

24 A. I don't remember it specifically

1 either. Do I need to go through it, though,
2 if --

3 Q. If you want to go off the record
4 and flip through it, you're more than happy.
5 It's your presentation.

6 MR. PYSER: You can go through it
7 on the record, if you want, as much as
8 you need to answer the questions.

9 MR. FULLER: He will not take my
10 time.

11 A. Okay. Well, let's just move on
12 and if I get to a spot, you'll give me a second
13 to look it over.

14 Q. Fair enough. Fair enough.

15 So this is your picture, right?
16 Mr. Hartman, Mark Hartman, senior vice
17 president, supply chain integrity and regulatory
18 operations. Joined Cardinal in 1998.

19 A. That's a younger me.

20 Q. Not much. You look the same.

21 A. Come on.

22 Q. It says, "Oversight to Cardinal's
23 health, pharmaceutical, anti-diversion controls
24 and pedigree efforts," correct?

1 A. Yes.

2 Q. "Regulatory oversight for
3 Cardinal's 27 pharmaceuticals and 50 medical
4 distribution centers nationally."

5 Across the entire country, right?

6 A. Yes.

7 Q. And let's talk about that. When
8 you were building out this new system, which,
9 obviously, you had accomplished some by the time
10 we get to this presentation, your system was
11 being devised to be applied across the entire
12 country, wasn't it?

13 A. Yes.

14 Q. All distribution centers?

15 A. Yes.

16 Q. It was a systemic application
17 from, like we talked about earlier, Auburn,
18 Washington, all the way down to Lakeland
19 Florida?

20 A. Yes.

21 Q. And you wanted that because you
22 wanted everybody operating under the same rules?

23 A. Yes.

24 Q. Everybody performing the functions

1 the same way?

2 A. Consistency and commonality is
3 what we were after.

4 Q. Absolutely.

5 Let's go to page 5.

6 This is entitled "Supply Chain
7 Integrity."

8 Do you see that?

9 A. Yes.

10 Q. And there you go again. "Supply
11 Chain Integrity is a holistic approach to the
12 supply chain ecosystem of an industry aimed at
13 creating a safe and secure supply chain from
14 manufacturer to end user."

15 And let's talk about that just for
16 a second, because this supply chain that you're
17 working with is what is known as a "closed
18 system," isn't it?

19 A. I think that's the term we used,
20 yes.

21 Q. It's also the term the legislature
22 used in creating the CSA as well. Okay?

23 But do you know or have an
24 understanding what that means?

1 MR. PYSER: Object to form.

2 A. Give me an explanation so that I
3 can understand better what you're asking me.

4 Q. Closed system. We have a closed
5 system of distribution. It's not open to
6 everybody, is it?

7 A. Well, a closed system, I assume
8 that's correct. And in our world, that's right.

9 MR. FULLER: Can we flop to the
10 ELMO, please.

11 BY MR. FULLER:

12 Q. So the closed system that you work
13 in starts with the manufacturers, doesn't it?

14 A. Yes.

15 Q. That's who makes the medication,
16 the pills, the controlled substances that
17 Cardinal sells and distributes; is that fair?

18 A. Yes.

19 Q. The manufacturers sell to the
20 wholesale distributors, right?

21 A. Predominantly.

22 Q. There's some exceptions. Some
23 manufacturers are also licensed distributors and
24 may distribute directly; is that fair?

1 A. Yes, yes.

2 Q. So we have the manufacturers to
3 the distributors. So far, unless you're a
4 licensed registrant, you don't get to play in
5 this game, do you?

6 MR. PYSER: Object to form.

7 A. That would be correct.

8 Q. The distributors -- you have to be
9 careful who you sell to, don't you, very careful
10 who you sell to when you're dealing with
11 controlled substances, particularly, correct?

12 A. Who are you referring to? What's
13 your question?

14 Q. Whoever you sell to. Whoever
15 you're selling controlled substances to. Don't
16 you do a lengthy investigation of those
17 individuals to make sure they're a registrant,
18 that you know your customer, so forth and so on?

19 A. I believe we do those elements,
20 yes, in our system.

21 Q. Okay. And those would be,
22 generally speaking, drugstores and pharmacies?

23 A. Yeah, generally -- well, no. You
24 know, drugstores, pharmacies, hospitals,

1 long-term care.

2 Q. Basically an end user, the way the
3 system is designed, right?

4 A. Yeah. I think that's right.

5 Q. And we'll add hospitals there and
6 long-term care, LTC; is that okay?

7 A. Sure.

8 Q. And, basically, when we talk about
9 it being a closed system, means unless you are
10 licensed as one of these entities, you can't
11 play ball, doesn't it?

12 MR. PYSER: Object to form.

13 A. I don't know that -- I don't know
14 the definition that you're using in "closed
15 system." I know how we operated, and I don't
16 recall any nuances to that. That's a general
17 description, and I don't know if there's --

18 Q. Can you sell to someone that's not
19 a registrant a controlled substance?

20 A. No, I don't think so.

21 Q. You don't think so or you don't
22 know?

23 A. No, I'm not --

24 Q. Are you sure?

1 A. Well, in our world, we sold to our
2 customers who we had done our diligence on to
3 have in our system.

4 Q. To make sure that they are a
5 registrant and that you can legally sell to
6 them, right?

7 A. That would be probably how we did
8 it.

9 Q. Well, let's hope so, correct?

10 MR. PYSER: Object to form.

11 Q. I mean, do you know if you sold to
12 people who aren't registrants?

13 A. I have no knowledge of any of
14 that. I -- no.

15 Q. And do you know why you operate in
16 the closed system?

17 MR. PYSER: Object to form. Legal
18 conclusion.

19 A. To protect the supply chain.

20 Q. And that's important, isn't it?

21 A. Sure.

22 Q. And it's important because we're
23 dealing with substances that are -- if they're a
24 control II, labeled as being dangerous and

1 highly addictive, correct?

2 A. I guess I would suggest that it's
3 beyond that because we have other
4 pharmaceuticals that are equally as important to
5 be protected in the supply chain for the
6 handling, their care, to get to the right place
7 at the right time.

8 Q. So according to Mark Hartman, we
9 do this to protect the supply chain.

10 And as of December 2007, you were
11 the one for Cardinal overseeing the protection
12 of the supply chain; is that fair?

13 A. December 2007?

14 Q. Yes, sir.

15 A. Yes.

16 Q. Up until February of 2010 when you
17 left the company?

18 A. Yes.

19 Q. You were the one, the man in
20 charge of ensuring supply chain integrity?

21 A. Through my teams, that's what we
22 did.

23 Q. You had people that worked for
24 you. You weren't doing it alone, right?

1 A. Yep.

2 Q. But as the captain of the ship, it
3 was your ship to sail, right?

4 A. That's what we did.

5 Q. Okay. And let's go back to 3892.

6 It says here, "Cardinal began work in Supply
7 Chain Integrity as a response to leaks within
8 the pharmaceutical value chain."

9 And that's because when you were
10 brought in, Cardinal had leaks in their system?
11 They had leaks in the supply chain, right?

12 MR. PYSER: Object to form.

13 A. Yes.

14 Q. And that was part of what you were
15 there to help correct, isn't it?

16 A. Yes.

17 Q. Now, we're going to bounce around
18 to a couple different documents, Mr. Hartman.

19 And -- now, let's talk about it.
20 You have -- and I think you've alluded to it.
21 You have extensive experience in business,
22 correct?

23 A. Yes.

24 Q. And you know for a system,

1 whatever system, supply chain system,
2 engineering systems, whatever it is, if we have
3 people we're supervising, we need to give them
4 the resources, training, system, and enough
5 people to do the job, right? Correct?

6 A. That would be a principal role.

7 Q. That's an important aspect, making
8 sure our people are competent, are educated,
9 trained, and have the resources they need to
10 perform whatever tasks we give them, correct?

11 A. That's an important role for sure.

12 Q. So, for example, at Cardinal, you
13 guys had what's referred to as pickers.

14 Do you know what a picker is,
15 Mr. Hartman?

16 A. Yes.

17 Q. Tell the jury what a picker is.

18 A. So in the distribution centers, of
19 course, you had a staff of people in order to
20 run the distribution center. So you had to have
21 people who received orders. You had to have
22 people who picked orders, went to the
23 transportation people who loaded the orders, and
24 then drivers, of course, where we would take it

1 to the customers.

2 So the picker part of this would
3 be in the evenings generally so that we could
4 pick, pack, and ship some 30- or 40,000
5 deliveries that next day to get those drugs into
6 our customers' hands so that we could help them
7 reduce inventories, be more efficient and for
8 them to have a better practice in their
9 business. And the picker is a key part because
10 they put the right products into our delivery
11 mechanisms --

12 Q. Totes?

13 A. -- to get -- see, you know -- you
14 know this. You're just seeing if I do.

15 Q. Some of your people have taught me
16 a little bit.

17 A. Okay.

18 Q. So you have pickers that pick and
19 place things in totes, and you have checkers
20 that double-check what pickers are picking,
21 don't you?

22 A. Yes.

23 Q. And that's all part of the supply
24 chain in getting things out, and like you

1 mentioned, we have a huge volume going out of
2 our distribution centers?

3 A. Yes, we do.

4 Q. For example, Mr. Baranski -- do
5 you know Mr. Baranski, Wheeling distribution
6 center?

7 A. I probably met him. I -- the name
8 is familiar to me, but I don't -- I don't
9 know -- I don't remember him real well.

10 Q. He was the -- or is still the
11 director of operation over the Wheeling
12 distribution center.

13 A. Okay.

14 Q. And he testified that they had
15 about 1.7 million orders going out every month,
16 every month, and I forget the geographical area
17 that he covered, but it was a number of states:
18 West Virginia, Ohio, part of Pennsylvania, I
19 think some others as well.

20 A. Okay.

21 Q. Don't hold me to that.

22 But he covers a huge number of
23 pharmacies and customers, right?

24 A. Yes.

1 Q. As do all your distribution
2 centers, because you have -- I mean, at least
3 according to your presentation -- about 27 to
4 cover the entire country, correct, at least on
5 the pharmaceutical side?

6 A. Yeah. A little interesting tidbit
7 for you is that we located them in places so
8 that we would not have anybody further out than
9 six hours from a distribution center, and then
10 we had overlaps that we insured our customers
11 were supplied every day even if we had to
12 expedite an order to them so they had the
13 pharmaceuticals to serve the patients that are
14 in that drugstore to get their drug -- needed
15 drugs the next day.

16 Q. So --

17 A. So that's the reason for the
18 number of distribution centers.

19 Q. So -- and let me make sure I'm
20 understanding. So you strategically placed your
21 distribution centers so you could reach any
22 location in the country within six hours
23 driving?

24 A. That was the desired approach. We

1 didn't accomplish that to 100 percent, but
2 pretty much we were in that -- we were in that
3 performance pattern.

4 Q. So let's go back to 4765,
5 Plaintiff's Exhibit Number 8, that you have in
6 your stack there, Mr. Hartman. You can keep
7 your presentation out because we're going to go
8 back and forth from that.

9 A. Okay.

10 Q. If you'll turn to page 15 of that,
11 again, the upper right.

12 A. Okay.

13 Q. Page 15.

14 And this, again, is that
15 presentation that we looked at earlier, and we
16 were back on page 64, talking about the staffing
17 issues related to regulatory.

18 You recall that earlier?

19 A. Yes.

20 Q. It's the same document. It's just
21 an earlier page. Okay?

22 A. Yes.

23 Q. And if you look, it says, "Fiscal
24 Year 2005 Current State and Estimated Regulatory

1 Training Costs."

2 Do you see that there?

3 A. Yes.

4 Q. And "PTS."

5 What is "PTS"?

6 A. I can describe it. I can't
7 remember -- I can't -- I cannot remember the
8 acronym.

9 Q. Fair enough. Let's just roll
10 through this real quick.

11 "PTS - Inconsistent training
12 across sites."

13 Do you see that there?

14 A. I see that.

15 Q. Then it goes through the next one,
16 "MPS/PD - Redundant training across sites; high
17 potential for resource sharing."

18 We want to be as economical as we
19 can with our resources, don't we?

20 A. Oh, yes. Yeah.

21 Q. Then we go down to the next slide
22 at the bottom of the page, and it says, "Current
23 State - Problem/Issues."

24 It says, "Lack of corporate."

1 Do you see that there?

2 A. Yes.

3 Q. Read that to us, if you don't
4 mind, Mr. Hartman.

5 A. "Lack of corporate sponsorship for
6 training; authority (if there is any real
7 accountability) rests at individual sites in
8 most cases; in most cases no repercussions for
9 problems in training (not showing up; not
10 completing; failing testing)."

11 Q. And what does the next line read?

12 A. "Training process is non-existent
13 in some sites."

14 Q. And if we're talking about
15 regulatory, regulatory compliance, we need to
16 make sure, throughout the entire company, all
17 40,000-plus employees are properly trained on
18 their obligations in that regard, don't we?

19 A. That's the objective.

20 Q. And it wouldn't be acceptable if
21 we had non-existent training at some of our
22 sites, would it?

23 A. That's why we have reviews and
24 then we put together plans to go address that.

1 Q. If you read, "Numerous
2 483 references." Read that for us.

3 A. "Numerous 483 references to
4 insufficient training (one of the root causes or
5 symptom of causes: Staff not trained; trainers
6 not qualified, effectiveness was not measured;
7 training not provided in any timely manner;
8 curriculum not developed or no minimum training
9 requirements.)"

10 Q. If that was the case -- and during
11 2005, you weren't involved in regulatory and the
12 training for regulatory, were you?

13 A. No.

14 Q. If that was the case, that would
15 be concerning, would it not?

16 MR. PYSER: Object to form.
17 Speculation.

18 A. Again, this is a comment in a
19 review that we would have to understand what the
20 comment is directed at. I don't know what
21 particular -- as you can see, there's four big
22 divisions there. I don't know what the
23 reference is to, where these comments are
24 referenced to, what division or which part of

1 the company.

2 Q. Sure.

3 But if it's going on in any part
4 of the company, it's not acceptable, you would
5 agree?

6 A. Yes, I would.

7 Q. Then it goes --

8 MR. PYSER: Object to form.

9 Q. Then it reads, "Redundant training
10 across most segments with little or no resource
11 sharing."

12 Do you see that?

13 A. Yes.

14 Q. Now, we talked about pickers, for
15 example. Even with pickers, we've got to make
16 sure they're properly trained as it relates to
17 regulatory compliance, don't we?

18 A. Yes.

19 Q. Pickers, checkers, everybody in
20 our distribution centers, it's vitally important
21 because those are the people sending out the
22 pills, isn't it?

23 A. Yes.

24 Q. And if they're not given the

1 resources or the education to do their job, it's
2 a recipe for disaster, isn't it?

3 MR. PYSER: Object to form.

4 A. No, I don't agree with that.

5 The --

6 Q. So it's okay if we don't give
7 them --

8 A. Well, they're picking products off
9 of shelves based on the specific number, a
10 location. So at that point, then, that picker
11 turns it over to a checker, so that to your
12 point, if we did make a mistake, if we did pick
13 the wrong product, if we picked too many, we had
14 a checking station that was very accurate to
15 make sure that we got the right products and the
16 right quantities going to the right place.

17 Q. Well, you say the picker is
18 picking by numbers -- or by, I guess, SKU maybe,
19 right?

20 A. Correct.

21 Q. So is a checker checking by SKU?

22 A. When I was there, the way our
23 checking system was -- worked, was automated.
24 The tote would come --

1 Q. It was done by computer, is what
2 you're telling me?

3 A. It was a -- yes.

4 Q. Okay.

5 A. It was a somewhat manual yet
6 automated check process. So I don't think it's
7 confidential anymore. We held it highly
8 confidential for a long time. But we would have
9 a picking route which we knew was the fastest
10 and best way for a human being to move through a
11 distribution center section, not the whole
12 thing. And they would have an order and they
13 would have a cart with many totes, and they
14 would actually go to the specific location.
15 Early on, it was on paper. Later on, it's
16 automated.

17 Q. Computerized somehow?

18 A. Computerized.

19 Q. Okay.

20 A. And those products would then go
21 into the totes, which are for specific
22 customers.

23 Q. Each tote is for a specific
24 customer, is what you're saying?

1 A. Each tote, as I recall. I don't
2 know if they changed process on me or -- but
3 each tote. So then the tote would serpentine
4 through fast, efficient, get the right products
5 to the right customer, would go to a checker
6 station.

7 Those checkers would either dump
8 the products out on a table or out of the tote,
9 scan every one, and the device would actually
10 tell them if it was a wrong item for that order.

11 Q. Got it. It would make sure that
12 they had picked whatever was ordered, whatever
13 the item was?

14 A. Our job was to get the exact right
15 products and the exact quantities to the
16 pharmacy. They needed them for the next day for
17 those patients and customers coming in. So,
18 yes, we were -- we were pretty anal about that.

19 Q. But, again, we need to make sure
20 pickers and checkers are properly trained so
21 they can perform their functions?

22 A. Well, of course. But in the
23 spirit of that, in the distribution center,
24 mistakes are going to get made. We -- I think

1 we've even commented on that.

2 So pickers were in doing their job
3 and the checking station -- while we had trained
4 people, the device, the automation, was the
5 thing that assured us the right products and the
6 right quantities were getting into the right
7 totes for the right customers.

8 Q. Fair enough. Fair enough.

9 So let's continue this issue of
10 leaks.

11 MR. FULLER: I need 4444, please.

12 - - -

13 (Cardinal-Hartman Exhibit 14 marked.)

14 - - -

15 BY MR. FULLER:

16 Q. Mr. Hartman, if you look at 4444,
17 it's an e-mail with an attachment. I believe if
18 you go to the third page, it indicates this is
19 July 27, 2006.

20 Do you see that?

21 A. You said third page?

22 Q. Yes, sir. I'm sorry.

23 A. Yes. July 27, '06.

24 Q. And it says "confidential" up at

1 the top?

2 A. Yes. I see that.

3 Q. This is supposed to be secret,
4 right?

5 MR. PYSER: Object to form.

6 Q. Somebody indicated it was supposed
7 to be confidential?

8 A. I think your term "secret" is a
9 wholly different -- you know, I think you
10 commented on my military background. Secret is
11 a completely different category.

12 Q. Confidential clearance versus
13 confidential clearance?

14 A. Confidential -- well,
15 "confidential" just means that we keep it
16 in-house to our -- whoever needs to see it. It
17 would be, I guess, my descriptions, I don't
18 recall. I don't know. But that's how I saw
19 confidential. You just don't leave them around.
20 You don't hand them out to everybody. It's who
21 needs to see it.

22 Q. Fair enough.

23 And this is regulatory compliance
24 review, June 2006, pharmaceutical distribution,

1 Birmingham, Alabama, right?

2 A. Okay.

3 Q. You guys had a distribution
4 center, or do have, in Birmingham, Alabama,
5 right?

6 A. Yes, we do.

7 Q. And if you'll turn to the section
8 on "Significant Issues" on page 4.

9 Do you have that in front of you?

10 A. Yes.

11 Q. Have you seen these type of
12 reports before? I would assume in your
13 regulatory department you would review these
14 regularly?

15 A. And in my early career jobs on the
16 pharma side, I certainly saw them.

17 Q. Fair enough.

18 "Significant Issues, DEA." And go
19 down to where it says "There is no system."

20 Do you see that?

21 "There is no system to determine
22 excessive or suspicious ordering by customers of
23 controlled substance products."

24 A. Yes, I see it.

1 Q. That's not a good regulatory
2 system, is it?

3 MR. PYSER: Object to form.

4 A. Again, you have these kind of
5 audits in order to put together plans and
6 execute against them to improve systems and
7 processes.

8 Q. Absolutely. Absolutely.

9 This was an ongoing process at
10 Cardinal, right?

11 A. What?

12 Q. This sort of audit review system.

13 A. Yes.

14 Q. It wasn't something new in 2006?

15 A. I don't think so. I think this
16 was an ongoing process that we exercised.

17 Q. So for some period of time,
18 unbeknownst to us sitting here today, the
19 Birmingham, Alabama, facility had no system to
20 determine excessive or suspicious orders of
21 controlled substances.

22 Can you and I agree, Mr. Hartman,
23 that that would mean that the Birmingham, as a
24 registrant, would be breaking the law based on

1 the regulations we read earlier?

2 MR. PYSER: Object to form. Calls
3 for a legal conclusion.

4 A. No.

5 Q. It wouldn't be breaking the law?

6 A. No.

7 Q. Why not? Strike that.

8 MR. PYSER: You asked the
9 question.

10 MR. FULLER: And I struck it.

11 MR. PYSER: He can answer the
12 question.

13 MR. FULLER: No, he can't. I
14 struck the question.

15 MR. PYSER: If you want to answer
16 the question, go ahead.

17 MR. FULLER: No, I struck the
18 question.

19 A. The reality is that, exactly as I
20 told you in the prior systems, we were operating
21 in a manner that we believed we were conducting
22 ourselves as the DEA required us to, which
23 meant --

24 Q. Well, you already told us --

1 A. Headquarters was providing reports
2 to the DEA on a monthly basis that we were
3 required to report. And the DEA agreed with
4 that. They told us we were doing a good job.
5 That's what I know about the prior system. I
6 don't know a lot about it. Others will be able
7 to tell you much more, but that's what I know.

8 Q. So, Mr. Hartman, you testified
9 earlier that the regulation required -- the
10 regulation and statute required three things.
11 One, to operate a suspicious order monitoring
12 system, right?

13 A. Yes.

14 Q. This says Birmingham, as a
15 registrant, has no suspicious ordering system,
16 doesn't it? I mean, isn't that what it says
17 here?

18 A. That's what the document --

19 Q. No system?

20 A. -- says.

21 Q. So that means they're breaking the
22 law.

23 A. I don't know that -- I don't know
24 if that -- if that included or didn't include

1 the actions on the part of the headquarters for
2 that facility.

3 Q. We're going by what this document
4 says, because it doesn't say --

5 A. I see what it says, and I'm
6 responding to the fact that I don't know. I
7 wasn't there. I'm just giving you my comment.

8 Q. Sure.

9 And it says "no system," right?

10 MR. PYSER: Object to form.

11 A. It says "no system."

12 Q. And the law requires you to have a
13 suspicious order monitoring system, doesn't it?

14 MR. PYSER: Object to form. Calls
15 for a legal conclusion.

16 Q. Yes or no?

17 A. The code calls for us to operate
18 and maintain a suspicious order monitoring
19 system.

20 Q. Fair enough.

21 So let's go to page 7.

22 You see "Controlled Substance
23 Order Filling" --

24 A. Yes. I see it.

1 Q. -- at the bottom of the page?

2 A. Yes.

3 Q. It says there "Observation." Read
4 the observation to us, Mr. Hartman.

5 A. "There is no system in place to
6 determine excessive purchasing of controlled
7 substance products."

8 Q. And what is the Corrective Action?
9 It's going to "Create a system to determine
10 excessive purchasing by customers of controlled
11 substance products and report any excessive
12 purchases to the DEA on a monthly basis," right?

13 A. Yes.

14 Q. That's the same system you said
15 was being done out of corporate?

16 A. Well --

17 Q. Isn't it?

18 A. -- what I understand is the
19 corporate system rolled up the information from
20 each of the field sites in order to put the
21 report together, which then went to DEA, which
22 provided the information around the reports that
23 were required at the time. That's how the
24 system, I believe, worked.

1 Q. Well, this says that they weren't
2 even reporting the monthly basis. And it says,
3 "Post charts of products and dosage limits in
4 the crates and vaults."

5 Part of the corrective action,
6 right?

7 MR. PYSER: Object to form.

8 Q. Is that what it says, Mr. Hartman?

9 A. You said something about crates.

10 Q. I'm sorry. Cage and vault.

11 A. Oh. I'm sorry.

12 Okay. "Post charts of products
13 and dosage limits in the cage/vault."

14 Q. And then, "Remind vault personnel
15 they should be policing and identifying
16 individual orders that appear excessive in
17 relation to what other customers are buying
18 and/or customer purchase history."

19 Isn't that what it says?

20 A. I see it.

21 Q. And that was a policy that
22 Cardinal had across the board, isn't it?

23 A. To my understanding, it was.

24 Q. And those are the pickers and the

1 checkers, aren't they?

2 Who picks the products,

3 Mr. Hartman?

4 A. See, I --

5 MR. PYSER: Object to form.

6 A. Yeah. So part of this is the
7 other side of the team, too. So I don't know
8 what they're referring to here, if it's
9 everybody or if it's the receiving team is the
10 day team as well. I wasn't there. I don't
11 know.

12 Q. And then it says, "When a narcotic
13 order appears excessive, have a supervisor
14 approve the DEA Form 222 before it's filled."

15 Isn't that what it says?

16 A. That's what it says.

17 Q. It doesn't say report it, does it?

18 Does it say report it there?

19 A. It does not say report.

20 Q. It says "have a supervisor approve
21 the 222 form before it's filled."

22 MR. PYSER: Object to form. Asked
23 and answered.

24 Q. Right?

1 A. That's what it says.

2 Q. Okay.

3 MR. FULLER: Give me 4722.

4 Actually, give me 4631.

5 A. Now, I suspect the context of that
6 last question is to have a supervisor approve so
7 that they can review the order.

8 MR. FULLER: Go ahead and give me
9 4722 and have her pull that. Thanks.

10 MS. QUEZON: What exhibit number
11 are you on?

12 MR. FULLER: This is 15. It's
13 going to be Plaintiff's 15.

14 - - -

15 (Cardinal-Hartman Exhibit 15 marked.)

16 - - -

17 BY MR. FULLER:

18 Q. Mr. Harman -- excuse me --
19 Hartman. You have number 4722, which is now
20 Plaintiff's Exhibit 15 for purposes of this
21 deposition.

22 This appears to be an e-mail; is
23 that right?

24 A. Yes.

1 Q. From a Bob Kurtz. Do you know
2 Bob Kurtz from down in Florida?

3 A. It doesn't ring a bell.

4 Q. To Rafael Varela?

5 A. I don't remember.

6 Q. And this is dated what?

7 A. December 5, 2007.

8 Q. Okay. And if you'll go down to
9 the third paragraph/line there. It starts "The
10 manual process."

11 Do you see that?

12 A. Yes.

13 Q. It says, "The manual process we
14 perform now with the discovery of suspected
15 excessive purchase being left up to the keyer
16 notifying myself or a picker/double checker/QCer
17 questioning the amount being purchased -- or
18 excuse me -- processed seems to leave ample
19 opportunity to failure -- excuse me -- for
20 failure."

21 Did I read that right?

22 A. Yes.

23 Q. So the process that we've already
24 talked about, at least according to this

1 employee of Cardinal's, leaves --

2 MR. FULLER: And underline that

3 for me, if you would --

4 Q. -- "leave ample opportunity for
5 failure."

6 Then it goes on to say, "A system
7 generated flag would be more complete or
8 thorough method of determining spikes or
9 excessive quantities that we want -- excuse
10 me -- than what we are currently performing."

11 Do you see that there?

12 A. Yes.

13 Q. And it says, "As you know, I've
14 investigated many accounts. I track their
15 ordering history and have reached out for
16 guidance and directions. But without 'someone'
17 bringing a suspected excessive quantity order to
18 our attention, many, many more could be going
19 out the door" -- what does it say?

20 A. "Under our noses."

21 MR. FULLER: If you'll underline
22 that.

23 BY MR. FULLER:

24 Q. "Going out the door under our

1 noses."

2 This is coming from somebody
3 that's working in Lakeland during the time that
4 Lakeland got its license suspended, right?

5 That's this time frame, isn't it?

6 A. Yes.

7 Q. And they have concerns about,
8 apparently, the system that was in place back
9 then relying on pickers and checkers. That's
10 what their voicing, correct?

11 MR. PYSER: Object to form.

12 Misstates evidence.

13 A. It looks like he's calling out
14 some inefficiencies that he felt needed to be
15 worked on.

16 Q. Now, you know that the policy and
17 procedure relied on pickers and checkers to
18 identify excessive orders in the distribution
19 centers, correct?

20 A. That's my recollection, yes.

21 Q. Now, so these pickers and
22 checkers, these people that are policing our
23 excessive orders in the distribution centers, do
24 you know what kind of qualifications that these

1 pickers would have to have, these people that we
2 have policing our highly dangerous controlled
3 substances? What kind of -- I mean, do they
4 have DEA backgrounds; do you know?

5 MR. PYSER: Object to form.

6 A. Not that I'm aware of, unless
7 somebody just hired in that happened to have
8 that.

9 Q. Do you know if they have any sort
10 of law enforcement experience?

11 A. Not that I'm aware of.

12 Q. Do you know if they have any sort
13 of diversion experience?

14 A. Not that I'm aware of.

15 Q. And these are the -- at least part
16 of the system that Cardinal was relying on on
17 these pickers is policemen, basically, to pick
18 up on excessive orders, at least according to
19 this person.

20 MR. FULLER: Let's go to 3879.

21 MR. PYSER: Object to form.

22 - - -

23 (Cardinal-Hartman Exhibit 17 marked.)

24 - - -

1 BY MR. FULLER:

2 Q. 3879, which is Plaintiff's

3 Exhibit 16 --

4 MS. SHIVERS: 17.

5 Q. -- 17, is Cardinal Health job

6 description.

7 Do you see that?

8 A. Yes.

9 Q. Cage and vault clerk. These are
10 our pickers for the cage and vault; is that
11 right, Mr. Hartman?

12 The vault is where we store our
13 controlled IIs, right?

14 A. Cage and vault, yes.

15 Q. Schedule IIs, our oxycodones, our
16 hydrocodones, all the opioids are going to be
17 stored in there, correct?

18 A. That's right, yes.

19 Q. This is our cage and vault clerk.
20 This is our policeman for excessive orders.
21 "Summary: Responsible for restocking shelving
22 and/or case lines according to stock advisory
23 information in an accurate and effective manner
24 in order to avoid shortages or mispick of any

1 product according to the laws and regulations
2 for handling controlled substances."

3 And let's go down to the bottom
4 under "Education and/or Experience" and see what
5 Cardinal Health required for these policemen.

6 Tell the jury what Cardinal's
7 requirements were to be a policeman for the
8 controlled substances or for people who are
9 supposed to be policing excessive orders at all
10 the distribution centers across the country.

11 MR. PYSER: Object to form.

12 A. "Qualifications. To perform this
13 job successfully, an individual must be able to
14 perform each essential duty satisfactorily. The
15 requirement listed below are representative of
16 knowledge, skill, and/or ability required. The
17 reasonable accommodations may be made to enable
18 individuals with disabilities to perform the
19 essential functions."

20 Q. And what's the education and
21 experience requirement that Cardinal Health has
22 for these employees?

23 A. High school diploma or equivalent,
24 warehousing or distribution experience

1 preferred.

2 Q. A high school diploma or
3 equivalent. No special training on diversion,
4 at least according to this, right?

5 A. This is an old logo. I can't even
6 imagine the time frame this was from. This is
7 pretty far back. So I have no idea, first of
8 all, if this is what exists today or later.
9 I -- this is an old -- this is a very old
10 document.

11 Q. Mr. Hartman, it was part of what
12 the lawyers and Cardinal produced to us in this
13 regard. This is what I have to go off of.

14 A. So there's not a time frame on
15 this?

16 Q. It was produced in 2007 to the
17 DEA. You can tell that by the Bates number.

18 MR. PYSER: If we're going to be
19 interpreting that, that means it's from
20 sometime before 2007.

21 Q. So, Mr. Hartman, again, there's no
22 regulatory training or education required for
23 this position, right?

24 MR. PYSER: Object to form.

1 A. Not according to this document.

2 Q. There's no certification
3 requirement for this individual, correct?

4 MR. PYSER: Object to form.

5 A. Certification in regards to --

6 Q. Anti-diversion, supply chain
7 integrity, anything. It's a high school --

8 A. I don't know that. I wasn't -- I
9 wasn't there. I don't know what qualifications
10 they then interpreted once they got the
11 candidates in the house to determine who was
12 going to be working in those roles.

13 Q. What is the educational experience
14 requirement, Mr. Hartman?

15 A. And in that cage/vault area, if I
16 recall correctly, we always -- we always looked
17 for our experienced and best people there. So
18 you would post the job description, so that was
19 not necessarily for external candidates alone.
20 That was for internal candidates who had worked
21 in the distribution center perhaps for periods
22 of time or long periods of time.

23 MR. FULLER: Well, I -- okay.

24 Let's go to Baranski 1, video, please.

1 (Video played.)

2 "Q. Now, when we're going
3 to pick up a product --
4 and let's deal with the
5 controls.

6 "A. Sure.

7 "Q. If you have -- and I
8 guess this depends on how
9 you get the order. If I'm
10 going to pick up the same
11 substances both in a brand
12 name and in a generic, how
13 do I know which to grab if
14 I'm the picker?

15 "A. The unit tells them
16 what location to go to.

17 "Q. And would the order
18 have specified whether it
19 was picking up a generic --
20 you know, something made by
21 a particular manufacturer
22 versus a generic?

23 "A. We teach our people to
24 pick from location to tote.

1 I don't even care if they
2 know the product. I want
3 them to know the location
4 to tote."

5 (Video stopped.)

6 MR. PYSER: Objection to form.

7 Vague as to time frame.

8 BY MR. FULLER:

9 Q. He doesn't even care if they know
10 the product. "Location to tote." That's the
11 individual running the Wheeling distribution
12 center for about a decade.

13 If a picker doesn't even know the
14 product, it makes it very hard to point out
15 excessive orders, doesn't it?

16 MR. PYSER: Objection to form.

17 Vague as to time frame.

18 MR. FULLER: Counsel, I'm going to
19 ask you one more time, please stop the
20 speaking objections. You're continuing
21 to do it, and you're trying to direct
22 the witness.

23 MR. PYSER: I'm not trying to
24 direct the witness.

1 MR. FULLER: And I've had enough
2 of it. If it happens again, I will
3 suspend. Just letting you know. You
4 know, I was very polite at first. I
5 then cited the depo protocol, and then
6 you continue to not comply with the
7 requirements.

8 MR. PYSER: I disagree with what
9 you're saying.

10 MR. FULLER: Just state objection
11 to form.

12 MR. PYSER: If you want to explain
13 why I disagree --

14 MR. FULLER: I don't need your
15 explanations.

16 MR. PYSER: -- I'm happy to have
17 Mr. Hartman leave the room and explain
18 to you why I think it's appropriate.

19 MR. FULLER: I don't need your
20 explanations. I don't need your
21 explanation. If you want to cross the
22 witness on any of this, as you know, you
23 are more than welcome to do it. If you
24 want -- if you think I'm misrepresenting

1 something, that's your opportunity to
2 clean it up.

3 MR. PYSER: If you don't want the
4 explanation as to why what you're doing
5 is misleading, that's fine. Continue.

6 MR. FULLER: I absolutely don't
7 care. You're right. Don't.

8 BY MR. FULLER:

9 Q. Mr. Hartman, you saw
10 Mr. Baranski's testimony. He doesn't even care
11 if the pickers know what they're picking,
12 according to what he said, correct?

13 MR. PYSER: Same objections.

14 MR. FULLER: Strike that.

15 Q. Let me ask it differently.
16 You have to know what you're
17 picking to be able to pick up on excessive
18 orders, right?

19 MR. PYSER: Same objection.

20 A. I don't agree with that. Systems
21 have been put in place now.

22 Q. Now, or back then?

23 A. I don't know the time frame we're
24 talking about. I --

1 Q. Okay. So let's back up and let's
2 clarify that.

3 So prior to 2007, pickers need to
4 know what they're picking to be able to spot
5 excessive orders, correct?

6 MR. PYSER: Object to form.

7 A. Prior to my role in the regulatory
8 group is what you're asking me?

9 Q. Yes, sir.

10 MR. PYSER: Object to form.

11 A. It would depend on if we had
12 systems in place to actually identify if they
13 were wrong or excessive orders, and I don't know
14 that.

15 Q. We saw the e-mail --

16 MR. FULLER: Bring back up for him
17 4722, which is Plaintiff's Exhibit 15.

18 BY MR. FULLER:

19 Q. An e-mail says an employee is
20 telling Cardinal that they're afraid -- third
21 paragraph -- fourth paragraph down, "Many, many
22 more could be going out the door under our
23 noses."

24 These are people at your

1 distribution centers with concerns about the way
2 the system is operating. You get that, right?

3 Do you understand that that's a
4 concern that this individual has and he's trying
5 to bring it to someone's attention?

6 A. The question is?

7 Q. Do you get that this person, in
8 Exhibit 15, is trying to bring to the attention
9 of someone that there's problems with the
10 system, that --

11 A. That could exist.

12 Q. -- many, many, more pills could be
13 going out right underneath our own noses?

14 MR. PYSER: Object to form.

15 A. That could exist.

16 Q. Yes. And Florida's license was
17 suspended at this time because of failure to
18 comply with suspicious order reporting
19 requirements, right?

20 MR. PYSER: Object to form.

21 A. During this time frame, that's
22 correct.

23 Q. Clearly, it couldn't exist or
24 maybe could exist. It did exist?

1 MR. PYSER: Object to form.

2 Q. Do you not find any problems with
3 a system that relies on a high school-educated
4 individual being the policeman for Cardinal
5 related to excessive orders?

6 MR. PYSER: Object to form.

7 A. So you're asking me if I don't
8 think a high school graduate can look at an
9 order and pick the product as they're directed?
10 I don't agree with that, that a high school
11 graduate can't do that job.

12 Q. That is not the question. If you
13 would listen to the question, Mr. Hartman.
14 We've been going through this all day long.
15 Listen to the question and answer the question I
16 ask and not the one you want to answer. Okay?

17 My question is, this e-mail isn't
18 complaining about high school graduates picking,
19 is it? Look at 4722, Exhibit 15. Are they
20 complaining and raising a concern about pickers
21 not being able to pick?

22 MR. PYSER: Object to form.

23 Q. Yes or no, Mr. Hartman.

24 MR. PYSER: Object to form.

1 A. It appears he's calling out some
2 situations and issues that he sees in his
3 distribution center that he's looking, again, to
4 get some program and some strategies in place to
5 resolve.

6 Q. And his concern is with the
7 pickers being the policemen to identify
8 excessive orders.

9 Let's read what he says. He says,
10 "The manual process we perform now with the
11 discovery of suspected excessive purchases being
12 left up to keyer notifying me or a picker or
13 double-checker or QCer questioning the amount of
14 the process seems to leave ample opportunity to
15 failure."

16 Right? Is that how it reads?

17 A. It appears that he's calling out,
18 as an individual, a person -- a issue that he
19 sees of multiple people involved, and he's
20 saying that presents a problem. I don't know if
21 it is or isn't.

22 Q. Well, we know --

23 A. And I, quite frankly, don't think
24 that we should stop from hiring a high school

1 diplomaed employee to do jobs in our
2 distribution centers.

3 Q. Absolutely agree with you.

4 What I think we should do, is we
5 should have sufficient systems to spot
6 suspicious orders so we comply with the law,
7 right?

8 A. We should have --

9 Q. Right? Should we have sufficient
10 systems to spot suspicious orders?

11 A. I wasn't there at the time to
12 comment on this.

13 Q. No, no. I'm not asking if you
14 were there at the time. I'm asking you if it's
15 your understanding that we should have
16 sufficient systems to spot suspicious orders;
17 yes or no?

18 A. As I got into role --

19 Q. Yes or no?

20 A. -- we put a system together to
21 enhance our program to involve not only
22 analytics and more IT work, the Know Your
23 Customer piece and training, and that's what I
24 did.

1 Q. So, Mr. Hartman, tell the jury
2 whether the law requires Cardinal to have a
3 sufficient system to spot suspicious orders --
4 suspicious order in place.

5 MR. PYSER: Object to form.

6 A. I don't know that that's an exact
7 quote, but I think that's the law that we abide
8 by.

9 Q. And you agree that Cardinal has an
10 obligation to prevent diversion the best they
11 can, right?

12 MR. PYSER: Object to form.

13 A. Cardinal Health has a
14 responsibility to identify suspicious orders, to
15 monitor those, to have a program in place, to
16 make its best evaluation, and if they determine
17 a suspicious order, to report that to the DEA so
18 the DEA has all the information that we believe
19 is relevant to a potential problem.

20 Q. And is Cardinal still able to ship
21 that suspicious order?

22 A. Under my time frame, we were not.
23 The rules had changed.

24 Q. And you believe prior to, you

1 could, at least according to what you've been
2 told?

3 MR. PYSER: Object to form.

4 Q. Right?

5 A. Told my team and I talked about,
6 that's the changes I walked into the job that
7 they outlined for me.

8 Q. And it was your understanding,
9 based on what they explained to you, that prior
10 to that time, that wasn't a requirement?

11 A. The not ship piece is what
12 changed.

13 Q. Right.

14 A. Because we were sending in reports
15 that the DEA approved. That was their guidance,
16 and Cardinal was sending those in on a monthly
17 basis, as they aggregated them, from the
18 distribution centers, supplied them to the DEA
19 so they had all of the information that we had,
20 and they could identify where those problems
21 existed. That's what we did, to my recollection
22 and knowledge, prior to me going into the role.

23 Going into the role, I went
24 forward to enhance and improve our system;

1 better analytics, a better IT system for us to
2 work with, an opportunity for us to expand on
3 Know Your Colleagues -- Know Your Customer, the
4 training for that, as well as I expanded the
5 team and investigators.

6 Q. And my question was a simple one.
7 You say that that's the part that changed, and
8 you're referring to the shipping requirement,
9 right, or the not shipping requirement?

10 A. How I recall it in that time
11 period.

12 Q. Right. And so it's your
13 understanding that prior to that change, you
14 could ship a suspicious order, correct, or do
15 you know?

16 MR. PYSER: Object to form.

17 A. Sorry.

18 MR. PYSER: Go ahead.

19 A. The only part that I'm aware of --
20 or I think what was going on is that our team
21 felt they were abiding by the DEA guidelines,
22 which meant that they aggregated data on a
23 monthly basis. So when you asked me, "Can you
24 ship a suspicious order?" the reality is, is

1 that the orders were already out of the
2 distribution center as the reports went into the
3 DEA.

4 That's what I recall the team
5 telling me about how it was operating, and I
6 come into role and I put down some pretty strong
7 measures for us to take the DEA's guidance and
8 to move forward.

9 Q. And let me just make sure I
10 understand. That's because the orders were
11 shipped the next day after the order was made,
12 generally speaking, right?

13 A. Generally, that's right.

14 Q. And as you described earlier, it
15 was to be able to get the medications, whatever
16 it may be, to the drugstore as quickly as
17 possible to keep down inventory and all that
18 kind of stuff that we talked about earlier,
19 correct?

20 A. This is an efficient supply chain.
21 We're trying to take costs out of the system,
22 certainly for -- for the pharmacies who, if --
23 before these supply chains were operated in that
24 capacity, they were getting deliveries maybe one

1 or two times a week. You had to carry a lot
2 more inventory, much higher costs.

3 Q. Sure.

4 A. Costs are passed on.

5 Q. Sure.

6 A. So you work hard to get a very
7 efficient system in place.

8 Q. So the way the system was working
9 when you came in, is that the suspicious orders
10 reports, this monthly reporting was done at the
11 end of the month, or, I'm assuming, the
12 beginning of the next month, whenever it was
13 compiled, right?

14 A. That's what I -- that's how I
15 recall it being described to me. Again, brief
16 detail. As I told you earlier, I didn't spend a
17 lot of time trying to go backwards.

18 Q. You were looking forward?

19 A. I put a stake in the ground to go
20 forward. What is the DEA requiring us? We
21 tried to call them. We tried to talk to them.
22 We tried to understand, what is it we need to
23 do? It's changed.

24 Q. And because the report is not

1 going out until the end of the month, all the
2 month -- orders made during the month were
3 already gone?

4 A. That's my understanding. Well,
5 the orders were gone, for sure.

6 Q. Yeah.

7 A. My understanding was the report
8 went in at the end of the month.

9 Q. Sure.

10 THE WITNESS: Can I ask if we take
11 just a really quick break?

12 MR. FULLER: Oh, no, no. Fine.
13 Absolutely. We've been going a while.

14 THE VIDEOGRAPHER: The time is now
15 3:35. We are going off the record.

16 (Recess taken.)

17 THE VIDEOGRAPHER: The time is now
18 3:55. Back on the record.

19 BY MR. FULLER:

20 Q. Mr. Hartman, we bounced off your
21 presentation, but let's go back to your
22 presentation on page 6.

23 A. 13?

24 MR. PYSER: It's the one with 3892

1 at the top.

2 MS. SHIVERS: 13.

3 Q. Yeah, it's 13. 3892 up at the
4 top.

5 A. Okay.

6 Q. You got that one?

7 A. Yes.

8 Q. All right. If you look at page 6.
9 Let's continue on.

10 You see this where it says we
11 all -- "We are all responsible"?

12 A. Oh, at the top?

13 Q. Yes, sir.

14 A. I see.

15 Q. Hold on. It will blow up on the
16 screen in front of you.

17 Okay. You see there where it
18 says, "We are all responsible"?

19 A. Yes.

20 Q. As you mentioned, this was a
21 meeting with other individuals in the supply
22 chain, correct?

23 A. Several industry supply chains,
24 not pharmaceutical. All sorts of supply chains

1 in the room. All sorts of participants. I
2 don't remember the number, but it was a pretty
3 big group.

4 Q. Fair enough.

5 And at this point you're talking
6 about diversion issues, correct?

7 A. No, I'm talking about -- in this
8 presentation, supply chain integrity, I'm
9 talking about all of the ways that I saw that a
10 supply chain could get affected by many, many
11 different aspects of a supply chain from
12 distribution center to in transportation to
13 just --

14 Q. But it's all forms of diversion,
15 right, either stealing, problems with
16 delivery --

17 A. Oh, no, no, no. No, I was -- no.
18 This is much, much broader. This is talking
19 about the integrity of the whole supply chain
20 from things like, you know, a wrong order going
21 to a wrong store. Nothing to do with diversion.
22 You know, a keyed script from a -- and they're
23 getting a large order of some drug -- you know,
24 all of those were what I was talking about in

1 the supply chain integrity for this broad
2 audience that we need to pay attention to so
3 that we don't have gaps and we don't lose
4 product. We don't have problems inside of that
5 supply chain.

6 Q. So you weren't talking about
7 diversion at all in this?

8 A. One element of diversion was in
9 this. That was one comment in -- well, it was
10 one of my, if you will, bubbles that I popped up
11 as a potential problem in the supply chain.

12 Q. Sure. Let's talk about this.

13 It says, "We are all responsible."
14 And what did you say in the bottom in the notes?

15 A. I said, "I don't know about you,
16 but this stuff scares me. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Our kids are obviously
20 finding ways to get drugs and in many cases,
21 it's coming from illegitimate means."

22 Q. Illegitimate means. It's not
23 keying something wrong, right?

24 A. No, no. It could be coming right

1 out of the cabinet at home.

2 Q. Due to the glut of pills available
3 in the country, right?

4 MR. PYSER: Object to form.

5 Q. Right? There's over-excessive
6 pills in the country at this point in time.
7 We're in the middle of an opioid epidemic, would
8 you agree?

9 A. See, I have a much -- I
10 100 percent agree with you on the opioid
11 epidemic. And my narrative is much broader than
12 the one you're trying to portray here because
13 the FDA approves drugs. The DEA approves the
14 ingredients for all of that volume that you're
15 talking about. And a licensed doctor prescribes
16 them and a licensed pharmacy dispenses them.

17 So my narrative for the whole
18 time, from when I stepped into role, until
19 today, remains the same.

20 MR. FULLER: So let's play the
21 Hartman video, please.

22 (Video started.)

23 "This yellow one, this
24 is my postpartum depression.

1 This one, sciatica, whatever
2 that is. I got these after
3 my hysterectomy or my
4 prostatectomy or some -ectomy.

5 And this guy is for the pain
6 from my last hip replacement.

7 This orange one, it is --

8 "Getting drugs can be easy as
9 opening your medicine cabinet."

10 MR. PYSER: Before we continue,
11 Counselor, I'd ask that any video --

12 (Video stopped.)

13 MR. FULLER: No, no. Go ahead and
14 finish the video, please.

15 (Video started.)

16 "I've taken maybe four
17 different types of pills.

18 I took Xanax, which was a
19 majority of what the pills
20 were. I took a roxy. I
21 took Percocets.

22 "But once you're in,
23 all the different pills are
24 dumped into a pile or a

1 bowl, something kids call
2 trail mix.

3 "We put it on the table
4 and mix it up and whatever
5 you got is what you got.

6 "And what kids get are
7 fistfuls of pills."

8 "Go on and slip me two
9 Xanax bars. I'm ready to get
10 full. 5th of Crown to wash
11 it down. I'm downtown snapping
12 rules. Ain't no shame up in
13 my game. In fact, I'm mentally
14 deranged. Oxycontin in my
15 system. Man I'm feeling kinda
16 strange.

17 Watch me ...

18 Go on and slip me two Xanax
19 bars. I'm ready to get full.
20 5th of Crown to wash it down.
21 I'm downtown snapping rules.
22 Ain't no shame up in my game.
23 In fact, I'm mentally deranged.
24 Oxycontin in my system. Man

1 I'm feeling kinda strange.

2 Watch me choke about this dope.

3 Blueberry from Texas ...

4 (Video stopped.)

5 BY MR. FULLER:

6 Q. Mr. Hartman, that video was part
7 of your presentation, wasn't it?

8 MR. PYSER: Before we continue,
9 Counselor, I'd ask that any exhibit --
10 any video that's watched during the
11 deposition be marked as an exhibit and
12 be provided to all counsel.

13 MR. FULLER: That's fine.

14 BY MR. FULLER:

15 Q. I mean, that was part of your
16 presentation, wasn't it, Mr. Hartman?

17 A. Yes.

18 Q. That was attached to your
19 PowerPoint, correct?

20 A. Yes.

21 Q. So if counsel provided the
22 PowerPoint, he already has the video, right?

23 A. I don't -- I've no clue.

24 Q. Well, that's where we got it.

1 A. I don't know.

2 Q. I got it from him.

3 A. I don't know if he's got it or

4 not.

5 Q. And you were concerned. You said

6 this stuff scares you, [REDACTED]

■

■

And it's a

9 reality that with the opioid epidemic, this
10 stuff is available. It is easily accessible
11 because of the issues that have presented itself
12 and the availability of these medication across
13 all lines.

14 And one of the things that you
15 were striving to do is trying to ensure that
16 Cardinal wasn't contributing to that, correct?

17 MR. PYSER: Object to form.

18 A. I had a distinct passion around

19 the job I was in. [REDACTED]

■

■

■

■

24 Q. Absolutely.

1 A. [REDACTED]

2 [REDACTED]
3 So when you ask me about this job,
4 what I did, why would you even go into that,
5 it's because I have a very distinct passion
6 around it. And that's that side.

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 So I appreciate you asking. But I
15 hope it was in reflection of the fact that I
16 showed those videos in this as one piece of the
17 supply chain for those of us that work in it,
18 that must do everything we can to prevent it and
19 stop it. And this is how the kids were getting
20 their drugs in a big way back in those days. I
21 showed those videos.

22 Q. Absolutely.

23 And it wasn't the only way kids
24 were getting their drugs. There were legal

1 Internet pharmacies with no patient/doctor
2 relationships, and those prescriptions were
3 being filled, too, weren't they, and that was
4 part of the 2007 suspensions?

5 MR. PYSER: Object to form.

6 Mr. Hartman, do you need a minute
7 before we continue, or are you okay?

8 THE WITNESS: I'm fine. I'm good.

9 BY MR. FULLER:

10 Q. But there were multiple ways --

11 A. Yes. There were multiple ways
12 that drugs were being diverted into the street,
13 into people's hands. Yes, I agree with that.

14 Q. And let's start with the basic
15 premise that -- we talked earlier about this
16 closed system. We wrote out this chain, if you
17 will, the integrity supply chain.

18 A. Yes.

19 Q. These drugs aren't like meth that
20 can be cooked in a trailer. These drugs have to
21 come out of this supply chain somewhere, whether
22 it's mom and dad's cupboard, whether it's a
23 legal script, and you have recognized in your
24 presentation that the wholesale distributors are

1 a chokepoint. They are the middle man between
2 the manufacturers and the pharmacies.

3 And when they go as far as
4 applying for and receiving a registration to be
5 able to deal in these substances, they take on
6 certain statutory obligations; we can agree, can
7 we not?

8 MR. PYSER: Object to form.

9 A. Yes.

10 Q. And they need to be held
11 accountable for ensuring those obligations are
12 carried out, don't they?

13 A. Yes.

14 MR. PYSER: Object to form.

15 Q. And that obligation didn't start
16 with Cardinal when you took on this role, did
17 it? This obligation with Cardinal goes back to
18 the beginning when they first started dealing in
19 controlled substances. And I say dealing. When
20 they first started providing the distribution of
21 controlled substances well before you came in
22 this role, correct?

23 MR. PYSER: Object to form.

24 A. Yeah, and the narrative is much

1 broader than that, because our government
2 agency -- and it's a narrative I've had from
3 when I walked in the job to the day that I'd sit
4 in front of you today. Our government agencies
5 failed us. It was a failed strategy to come
6 after the distributors.

7 It was a failed aspect of this
8 whole consideration of the opioid crisis to
9 leave out of the narrative how those ingredients
10 get to be the manufacturers to make these
11 volumes of drugs so that distributors, the
12 little piece of this, the distributors, are
13 fulfilling legitimate orders at pharmacies in
14 almost all regards for them to dispense them,
15 written by licensed DEA doctors. That's my
16 narrative. That's how I see it.

17 Q. So let's approach it that way.
18 You say we're going after distributors. Many
19 distributors have admitted to breaking the law.

20 Are you aware of that?

21 MR. PYSER: Object to form.

22 A. I'm not that close to it. It's
23 been ten years since I've been in this role.

24 Q. Okay. Well, they have.

1 And you would agree with me that
2 they should be held to their obligations under
3 the law, should they not?

4 MR. PYSER: Object to form.

5 Q. Yes or no?

6 A. I -- you know, I don't know who
7 has made comments or who's made admissions. I
8 know that we've undergone accusations at the
9 time period that I'm at the company, and we
10 responded to those. And we put our system in
11 place to deal with this problem.

12 And I personally made sure that we
13 did everything that we knew to do to be in
14 compliance with how the DEA required us to act
15 as a company in Cardinal Health. And please
16 remember, I didn't do that because I was in a
17 job alone. I did that out of a personal
18 passion.

19 Q. So, again, let me go back to my
20 question.

21 My question is, should they be
22 held to complying with the laws that they
23 undertook to fulfill when they became a
24 registrant?

1 A. Any registrant should be holding
2 themselves to the law.

3 Q. Let me ask, you have a driver's
4 license, don't you?

5 A. Of course, I do.

6 Q. And you drove here today, correct?

7 A. You know what time I left?

8 Q. I have no idea what time you left.

9 A. 5:30. I was worried about the
10 weather. I wanted to make sure you and I met.
11 I was here in this building about 6:30.

12 Q. Well, I was up working at that
13 point, too. And it would have been in the
14 building we would have met at other than having
15 to come over here.

16 A. I did drive here.

17 Q. And if you sped, if you broke the
18 speed limit on the way here, just because you
19 got caught doesn't mean -- or didn't get caught,
20 doesn't mean it's okay, does it?

21 You should abide by the law
22 whether or not you get caught, correct?

23 A. Yes, I agree with that.

24 Q. Speeding rules, speeding limits

1 are one of the safety rules we have in our
2 country to try to keep people safe on the
3 street, fair?

4 A. Yes.

5 Q. The statutory obligations that we
6 looked at earlier are the safety rules to try to
7 keep us safe when we're dealing with controlled
8 substances. Can we agree with that?

9 MR. PYSER: Object to form.

10 A. Oh, I understand that.

11 Q. And that's part of what you tried
12 to do at Cardinal, is ensure compliance with
13 those, correct?

14 A. No. I did do that. I didn't try.

15 MR. FULLER: So let's pull up the
16 Congressional testimony, clip 6.

17 (Video started.)

18 "MS. WALTERS: Now, when
19 Cardinal began setting
20 threshold limits for
21 pharmacies in 2008, the
22 company set family
23 discount's hydrocodone
24 threshold at 27,000 doses

1 a month. In a little over
2 a year, Cardinal adjusted
3 the pharmacy's threshold 14
4 times. And by August 2009,
5 it was cleared to receive
6 110,000 hydrocodone pills a
7 month. The pharmacy's
8 threshold for hydrocodone
9 reached a peak of 150,000
10 dosages a month in
11 January 2010, a level it
12 remained at for a year and
13 a half before Cardinal
14 officials reviewed and
15 reduced it.

16 "Mr. Barrett, when a
17 pharmacy goes over its
18 monthly drug threshold,
19 does Cardinal inquire about
20 the reason for the higher
21 drug order?

22 "MR. BARRETT: Thank you,
23 Congressman.

24 "Today if an order

1 reaches its threshold, it
2 simply stops. So the process
3 is, the threshold is set, and
4 the threshold is set based
5 on a number of factors; the
6 size of the community it
7 serves -- not just the
8 population but the community
9 it serves. Other factors.
10 Does it serve a hospice
11 center or a surgical center,
12 et cetera.

13 "If an order reaches
14 that threshold, that limit,
15 it simply stops.

16 "MS. WALTERS: But in the
17 past, did it -- did it
18 question it before today's?

19 "MR. BARRETT: So as I look
20 back at some of the historical
21 documents, I think the
22 thresholds probably should
23 have been set with a different
24 set of eyes. I've mentioned

1 this notion of asking
2 different questions, and
3 I think today would probably
4 set those quite differently.

5 "But I think at the time
6 of those pharmacies you
7 referred to, thresholds probably
8 should have been adjusted down
9 more quickly.

10 "MS. WALTERS: Did they -- did
11 Cardinal make an assessment
12 as to whether the explanation
13 for increasing the threshold
14 made sense and verified it in
15 any way?

16 "MR. BARRETT: It's hard for
17 me to answer that fully.
18 Again, this is part of the
19 history. I have no reason
20 to question the good intent
21 of those doing that kind of
22 assessment. They were
23 professionals.

24 "I think they were

1 looking at the incoming order
2 of prescribing. I think now
3 we know some of that
4 prescribing was driven by
5 some behavior that we would
6 have liked to have caught
7 in the physician world.
8 And today that simply could
9 not happen."

10 (Video stopped.)

11 BY MR. FULLER:

12 Q. So that was during your watch.
13 2008 to 2010, did a pharmacy in Mount Gay, West
14 Virginia -- do you know how big Mount Gay is?

15 A. I do not.

16 Q. Less than 2,000 people.

17 MR. PYSER: Object to form.

18 Q. They have thresholds for
19 hydrocodone of 27,000 a month for that pharmacy
20 that went up to over 100,000 per month and
21 remained there, at least according to the
22 congressional testimony, for over a year.

23 Does that cause you any concern
24 that that was happening in the system that you

1 put in place?

2 A. You know --

3 Q. 14 threshold increases over a
4 year's time.

5 A. The system I put in place was with
6 some subject matter experts. I relied on them.
7 They did their jobs, and in our system we used a
8 threshold approach to monitor each and every
9 order. And then we used a judgment factor,
10 Michael Moné and his team, to look at those
11 orders. Was there something more we needed to
12 know?

13 Is that area a bigger area than
14 the 2000 you're referring to in the town? Were
15 they near a hospital? Were they near -- were
16 there other pharmacies that aren't in that
17 location? So I don't have any recollection of
18 the account. I don't have any recollection of
19 getting involved in it. Michael and team were
20 handling that part of our business.

21 I was working very hard at making
22 sure we were responding to the DEA, setting up
23 our systems, making sure we're getting trained
24 and to move forward so that we could restore our

1 supply chain, the distribution center license
2 suspensions.

3 Q. And that was a priority, is
4 getting the license reinstituted?

5 A. The priority was to put a system
6 in place as fast as we could that abided by the
7 DEA guidance that we now knew, when I walked
8 into the role, that we now knew, as fast as we
9 could. And, yes, that that hopefully would
10 result in the restoration of our licenses for
11 those distribution centers.

12 Q. But over --

13 A. So the priority was to get the
14 system in place that we were now working
15 against, the guidance from the DEA, to improve
16 ourselves, to make it better, and to do the
17 appropriate jobs as they were now requiring of
18 us.

19 Q. But your system, that new and
20 improved system, allowed hundreds of thousands
21 of pills into a small -- used to be mining town
22 in southern West Virginia. There's no big
23 hospital around there. There's no big cancer
24 treatment center around there. It's a small

1 town with 2,000 people, Mr. Hartman, and they
2 were getting over 100,000 pills a month from
3 your company under your new system.

4 Your CEO even admitted that the
5 thresholds were too high. It would be done
6 differently now. That's the system that was in
7 place 2008 to 2010, right?

8 A. What I just described to you is
9 the system we had. We put a system in place
10 that depended on an enhanced capability, at that
11 time what we called "predictive analytics," and
12 today they call it AI, so that we could monitor
13 each and every order.

14 We established thresholds, which,
15 frankly, were -- I believe were based off of DEA
16 guidance. DEA guidance. And then we put that
17 in place so that we could monitor those orders
18 coming in. And in our system, the one we chose
19 to implement, included professionals like
20 Michael Moné and his team -- or it was his team,
21 I should say, not like him. It was him and his
22 team to look at each of those orders that hit a
23 threshold and then determine what we were going
24 to do about it.

1 Q. So you knew Michael Moné was
2 subsequently demoted because of quality and
3 regulatory issues, correct?

4 MR. PYSER: Object to form.

5 A. I'm not aware of that. He was a
6 vice president under me. Is he not a vice
7 president today?

8 Q. Have you not seen the internal
9 report that was done based on the 2012, 2013
10 investigation where it says he was too
11 subjective for that role and he was transferred
12 out of there?

13 MR. PYSER: Object to form.

14 Q. Have you not seen that?

15 A. I haven't seen that.

16 Q. You mentioned the threshold
17 system. What was this sophisticated threshold
18 process you went through? Was that when IBM was
19 hired or Deloitte or Dendrite to assist with
20 developing a threshold system?

21 A. Deloitte worked closely with us as
22 we developed our systems. I came into role. We
23 had them as external consultants to work side by
24 side with us.

1 Q. And they worked with your
2 regulatory team?

3 A. They did.

4 Q. What about IBM? Were they also
5 retained?

6 A. I -- I don't have any recollection
7 of IBM, whether they were there or not or why
8 they would have been there. Of course we're
9 working with our IT group hand-in-hand to do,
10 you know, what we had wanted to get done. I
11 don't have a recollection of IBM.

12 Q. And was Deloitte drafting or
13 designing this threshold system?

14 A. Well, Deloitte had, I recall, two
15 or three -- well, probably three or four people
16 on the team who worked very closely with us.
17 There was a couple of young IT types analy- --
18 with an analytical background that assisted
19 Michael, who was working with our IT department.
20 I don't recall who was front and center for us.
21 I just -- I don't recall who that person was to
22 build this system.

23 Q. But that was in Michael Moné's
24 sort of wheelhouse, right?

1 A. It was, and it was Michael and
2 these two assistants, and then we had a more
3 senior manager from Deloitte that was working
4 primarily with me --

5 Q. Who was that?

6 A. -- on the broader system.

7 Q. Who was that?

8 A. Mike Deloso.

9 Q. Mike Deloso.

10 And then you mentioned that the
11 DEA provided some sort of approval to this
12 threshold process?

13 A. I'm referencing the fact that when
14 we -- you know, our whole -- you know, during my
15 time, that whole mission was, get that system in
16 place, respond to the DEA guidance that we now
17 have. Because I walked in in December of 2007.

18 Let's do everything we can to get
19 that system up and in place, which included the
20 analytics from an IT perspective, the Know Your
21 Customer piece for training, for our field
22 representatives, the investigators with their
23 processes and practices.

24 And I'm sure I'm not addressing a

1 couple of the big -- you know, other areas, but
2 that was our whole world, was get that done as
3 fast as possible. And I say approval so that we
4 could get to a point that we knew was going to
5 happen, at least in discussions, were going to
6 be inspections to approve our system.

7 So if I recall correctly, the --
8 in November, we got our licenses back through an
9 agreement, and we went through a series of
10 inspections. There was a time frame around it,
11 and I recall February of '09. So when I say
12 approval, that's what I'm referring to, as to
13 how they came back and allowed us to have our
14 licenses back and we went back and got to the
15 business of our supply chain.

16 Q. And so you're not suggesting that
17 they specifically provided guidance on how to
18 create these thresholds. You're suggesting
19 that, we got our license back so we complied
20 with whatever they were asking us to do?

21 A. Yeah. What I was referring to
22 there, if I -- if I recall right -- and, again,
23 Michael Moné is going to be the expert on this
24 to be able to talk to you about that. But in

1 the early days, DEA had provided a multiplier of
2 2 and 8.

3 And as I recall, as we came in,
4 Michael instituted that -- a process that, you
5 know, as you're looking at an account to set the
6 threshold, you use the multiplier, and he
7 included a 5 in that to try to have even a
8 broader, more detailed approach, not just 2 and
9 8, but 2, 5, and 8 as the multipliers. That's
10 what I recall.

11 And that was the guidance, I
12 believe -- again, I'm not the expert. We went
13 off of -- from the earlier days with the DEA, in
14 setting thresholds or multipliers around, you
15 know, suspicious orders and those kind of
16 things.

17 Q. Let's go to page 22 of your
18 presentation, Mr. Hartman.

19 Let me know when you're there.

20 A. Yes.

21 Q. It's blown up in front of you
22 because I know it's small.

23 A. Yeah.

24 Q. This is where you indicate that in

1 2005 to 2006, the DEA began a series of informal
2 discussions with the supply chain, correct?

3 A. Yes.

4 Q. And you're aware that during that
5 time frame, they actually met personally with
6 Cardinal, correct?

7 A. So in this time frame, when I
8 delivered this presentation, and it still sticks
9 in my mind that it's further out than this date.
10 I don't know that. It seems like it was. I
11 gathered a lot of inputs around the supply chain
12 discussion from many different industry folks to
13 provide them all the ways that we were thinking
14 about leaks, meaning how the supply chain gets
15 interrupted. That's the term "leaks" that I
16 use, was how does it get interrupted.

17 So, yes, I wrote this in here. I
18 certainly -- I know I had probably seen those
19 memos before. I was gathering data. Quite
20 frankly, this presentation, I got great
21 assistance on from the Deloitte folks, because I
22 think it was a Deloitte-sponsored meeting at the
23 University of Tennessee.

24 Q. And you indicate the message was,

1 "Anti-diversion is everyone's responsibility,"
2 correct?

3 A. Yes, I did.

4 Q. And that "The uptake was not as
5 rapid and robust as the administrative
6 wanted" -- excuse me -- "as the administration
7 wanted," correct?

8 A. That's what I said.

9 Q. And it's meaning that the DEA
10 wasn't happy with it as quickly as everyone was
11 responding to their guidance?

12 A. I'm pretty sure that --

13 MR. PYSER: Object to form.

14 Q. Correct?

15 A. That's probably what I meant
16 there.

17 Q. And then you mentioned in 2006 to
18 2008, and this is the relevant time frame where
19 you come into the picture, the DEA began a
20 series of regulatory actions to promote change.

21 And that regulatory action did
22 institute change at Cardinal, didn't it?

23 A. Yes.

24 Q. It brought you into this role to

1 develop this new system for Cardinal, correct?

2 A. Yes.

3 MR. FULLER: All right. We're
4 going to take another quick break, and
5 Ms. Quezon is going to take over and ask
6 you some questions for a while if that's
7 okay, and probably even if it's not
8 okay.

9 THE VIDEOGRAPHER: The time is now
10 4:25. We're going off the record.

11 (Recess taken.)

12 THE VIDEOGRAPHER: The time is now
13 4:35. Back on the record.

14 - - -

15 CROSS-EXAMINATION

16 BY MS. QUEZON:

17 Q. Mr. Hartman, when you and
18 Mr. Fuller just kind of finished up speaking, I
19 know that one of the subjects that y'all touched
20 upon was the epidemic. And when it was
21 initially broached early in your deposition, I
22 think you agreed that -- that it's been going on
23 for some time now.

24 Was that your testimony earlier?

1 A. I think so.

2 Q. Okay. And if we could pull up
3 1087. And I'm not sure if you're familiar with
4 this particular document, Mr. Hartman, but this
5 is the -- it's an OAG -- a GAO report -- pardon
6 me -- from 2003. And this is Plaintiff's
7 Exhibit 21.

8 - - -

9 (Cardinal-Hartman Exhibit 21 marked.)

10 - - -

11 BY MS. QUEZON:

12 Q. And I guess the first question is,
13 are you familiar with this particular report?

14 A. No.

15 Q. Okay. We're not going to go
16 through the whole thing, but if I can just point
17 out a couple of things to you and just see
18 whether you agree or were aware of some of the
19 descriptions of what was happening in the United
20 States. And this is back, again, in December of
21 2003.

22 And if we can go to page 10. And
23 about three quarters of the way down that first
24 full paragraph, beginning with the sentence,

1 "The rapid growth in OxyContin sales, which
2 increased the drug's availability in the
3 marketplace, may have made it easier for abusers
4 to obtain the drugs for illicit purposes."

5 Do you see that?

6 A. I do.

7 Q. And it also talks about some
8 states that may have been predisposed to
9 diversion.

10 Do you see that as well?

11 A. Diversion that may have
12 predisposed some states. Yes, I see that.

13 Q. Okay. Well, let me first ask you,
14 would you agree that the availability of a
15 controlled substance in the marketplace would
16 increase the likelihood for diversion?

17 A. The availability?

18 Q. Yes, sir.

19 The more of the drug that is out
20 in the marketplace, the higher the likelihood
21 that the drug could be diverted and abused?

22 A. Well, that seems logical. The
23 reality is that, you know, going back to this
24 time frame, and as I've already stated from my

1 narrative, the DEA continues to increase
2 ingredients for manufacturers to make more and
3 more of the controlled substances.

4 So when we say "availability to be
5 diverted," the reality, as I see it, as a
6 distributor, or at least at the point when I was
7 in the job, these are prescriptions that are to
8 be written by DEA-licensed doctors. So the
9 presumption is they're being dispose -- they're
10 being dispensed by a DEA-licensed pharmacy going
11 into patients' hands to go home for whatever
12 medical treatment they needed.

13 So it makes it difficult to say,
14 would I agree with it's all going or it's more
15 likely for diversion. In my world, it's a
16 medical supply chain that's being fulfilled for
17 a patient that has a legitimate prescription
18 from a doctor.

19 Q. Well, you started by saying it
20 seems logical. So -- and I'm not going to argue
21 with you that there are many factors that may
22 have gone into where we find ourselves today.
23 But on a simplistic level, would you agree that
24 the -- that the glut of the -- of the controlled

1 substance, the more there is out there, that
2 it's going to increase the likelihood for
3 diversion and abuse?

4 A. Again, it seems logical on the
5 surface, but we have to look beyond that.

6 Q. And we will, but can you agree
7 that that would be one factor to consider, the
8 amount of the controlled substance available?

9 A. Yes.

10 Q. Okay. And let's go, if we can, to
11 page 35, and I think this is sort of a different
12 way of stating it, but it leads into a chart
13 that I want to take a look at, if we can. It's
14 that bottom paragraph there, sir. I'll wait
15 until you get there.

16 Once again, just simply states,
17 "The large amount of OxyContin available in the
18 marketplace may have increased opportunities for
19 abuse and diversion. Both DEA and Purdue have
20 stated that an increase in drugs availability in
21 the marketplace may be a factor that attracts
22 interest by those who abuse and divert drugs."

23 Sort of a different way of saying
24 it, but would you agree with both Purdue and DEA

1 in that -- in that conclusion?

2 A. Yes. I see where they may have.

3 Q. Okay. And if we can go to the
4 following page, page 36. And so this is just
5 simply a table that tracks from 1996, which if
6 you're not familiar, is when OxyContin was
7 released into the marketplace, up until 2002.

8 And do you see, sir, there the
9 increase in the number of prescriptions rising
10 from 316,000, about 317,000 if we round up, in
11 the year 1996, to 7,234,204 by the year 2002?

12 A. I see that.

13 Q. Okay. Now, this period of time
14 was well before you were brought in to
15 regulatory or any type of compliance at
16 Cardinal, correct?

17 A. Yes.

18 Q. All right. And this was the
19 period of time when suspicious orders, at least
20 according to your previous testimony, were being
21 identified by Cardinal but shipped, correct?

22 A. What -- to my understanding.

23 Q. Sure.

24 A. And, again, I am not an expert on

1 it, and I'm sure you'll talk to people that are.
2 The Cardinal system was following the DEA
3 guidance and instructions that we were to submit
4 monthly reports. So when you say I said
5 suspicious orders were being shipped, if I said
6 that, certainly what I meant was, they could
7 have been because those were monthly reports,
8 and any order that prior month that is now being
9 reported at the end of the month was already out
10 the door.

11 Q. Right. But you weren't reporting
12 every single order to the DEA? I mean, in ARCOS
13 you were, but this was something separate,
14 right, this monthly report?

15 A. My recollection is there was
16 ARCOS -- please don't ask me to define what that
17 is -- and ingredient limit report.

18 Q. And those are the ones -- I'm
19 sorry. Go on.

20 MR. PYSER: Finish your answer.

21 A. And those -- and those were the
22 ones that were required to go to the DEA. There
23 might have been others, but -- and that
24 specifically spelled out and showed the DEA

1 where the products were going.

2 Q. The suspicious products were
3 going, not every product, right, the limit
4 reports?

5 A. Limit reports, yes. I'm not real
6 clear on that -- these reports. That was my
7 understanding as I took the role as to how we
8 thought we were complying with -- we feel
9 changes happened, hence we pushed forward in
10 changes that the DEA had imposed on us.

11 Q. Sure. You thought that the
12 requirement was to report suspicious orders to
13 the DEA. And then when you came in, your team
14 explained to you that the DEA had changed the
15 rules, according to them, and that now not only
16 did you have to report, but you had to stop
17 shipment?

18 A. My time frame -- so December -- my
19 understanding is, what changed is -- well, a lot
20 of things changed. But, yes, now it was a
21 "don't ship a suspicious order."

22 Q. Right. Not just --

23 A. That's my understanding.

24 Q. Not just identify and report, but

1 identify, report, don't ship?

2 A. That's my understanding.

3 Q. Okay. So, again, during this
4 period of time when we go from 300,000 oxies --
5 316,000 oxies in 1996 to 7,200,000 in 2002, that
6 was during the period -- during the period of
7 time that Cardinal was identifying, reporting,
8 and shipping?

9 MR. PYSER: Object to form.

10 A. Again, I'm -- I don't have a -- I
11 don't have a clear understanding of that prior
12 system. As I took over, the team that I had
13 felt that they were meeting the obligations. So
14 I'm just going to say I don't know.

15 Q. But you knew that the change that
16 they explained to you --

17 A. In December of 2007.

18 Q. -- is that "we can't ship
19 anymore"?

20 A. That, I understood.

21 Q. Okay. Let's go to page 14, if we
22 can. And, sir, this is in regards to the -- how
23 long sort of this epidemic has been building.

24 And the report to Congress here

1 says, "Media reports of OxyContin abuse and
2 diversion began to surface in 2000. These
3 were -- reports first appeared in rural areas of
4 some states, generally in the Appalachian
5 region, continued to spread to other rural areas
6 and larger cities in several states. Rural
7 communities in Maine, Kentucky, Ohio,
8 Pennsylvania, Virginia, and West Virginia were
9 reportedly being devastated by the abuse and
10 diversion of OxyContin."

11 And then if we go on to the next
12 page, sir, about halfway down, that first
13 paragraph, "The media also reported on deaths
14 due to OxyContin. For example, a newspaper's
15 investigation of autopsy reports involving
16 oxycodone-related deaths found that OxyContin
17 had been involved in over 200 overdose deaths in
18 Florida since 2000."

19 Were you aware, sir, that there
20 were certain parts of the country that were
21 being affected more significantly than other
22 parts of the country when it came to the opioid
23 epidemic?

24 A. During what time period?

1 Q. Any time period.

2 A. At this time period that you're
3 reading from, I was not.

4 Q. When did you become aware?

5 A. [REDACTED]

6 [REDACTED]
7 I started to become much more informed in
8 understanding this problem in December of 2007.

9 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 Q. Let's go on, if we can, to the

22 time frame just before December of 2007.

23 MS. QUEZON: And it's P14195,

24 please. Exhibit 22.

1 - - -

2 (Cardinal-Hartman Exhibit 22 marked.)

3 - - -

4 A. This isn't this document.

5 Q. No. And you can just set that in

6 front of you. Oh, sorry. Here's both of them.

7 My bad.

8 MS. QUEZON: Sorry, Steve.

9 A. Okay.

10 Q. Have you seen this e-mail before?

11 A. Prior to my time in role, and I

12 don't recall it.

13 Q. Okay. Attached to this, sir, is a

14 suspicious order monitoring system that was put

15 in place by AmerisourceBergen.

16 Have you -- are you familiar with

17 that?

18 A. When I came in role, looking back,

19 didn't do a deep dive. I know I must have

20 looked at documents. I suspect I looked at that

21 document, and for what I was doing, we simply

22 marched forward at Cardinal around developing

23 and improving those aspects of the new

24 requirements and improving the system that we

1 had. So I might have looked at it. I don't
2 recall using it other than probably reviewing
3 it.

4 Q. Okay. Let's take a look at what
5 Mr. Reardon has to say about it, if we can.
6 And, again, this is in September of 2007. And
7 it starts, "HDMA," and can you tell the jury who
8 that is, for the record.

9 A. You're on the front page?

10 Q. Yes, I am. I'm so sorry.

11 A. Your question?

12 Q. HDMA, the e-mail begins with those
13 initials.

14 A. Healthcare Distributors, at that
15 time, Manufacturers Association, I believe.

16 Q. All right. And is that like a
17 interest group, like an industry group?

18 A. It was an industry association.

19 Q. All right. "Met with DEA
20 officials last Friday to discuss the Agency's
21 current policy position on suspicious orders of
22 controlled substances. A summary highlighting
23 the key points are attached for your review.
24 They're setting a new standard with which we

1 must comply. This is all coming about as a
2 result of the problems with Internet pharmacies
3 and controlled substance diversion.

4 "Recently, they suspended an ABC
5 registration and used the suspension to get them
6 to implement a complex and onerous suspicious
7 order monitoring program that meets the criteria
8 spelled out in the HDMA meeting summary."

9 In your -- and I know you said
10 didn't do a deep dive of it. Did you find ABC's
11 suspicious order monitoring program to be
12 onerous and complex?

13 A. I don't recall, but I suspect that
14 given the role I went into and the way I conduct
15 myself and the way I entered the position to get
16 whatever I needed, at the time I walked in the
17 job, I wouldn't have cared what complexity was
18 in front of me. We were going to do it.

19 Q. And in fairness, this was prior to
20 any of the Cardinal suspensions, correct?

21 A. Yes -- well, yes, if it's
22 September, then we were, what, in November and
23 December and January following on months.

24 Q. Now, it looks like in the second

1 paragraph, it says "Additionally, I'm aware that
2 McK" -- McKesson, correct?

3 A. Yes.

4 Q. -- "is in ongoing negotiations
5 with the DEA related to an Order to Show Cause.
6 An Order to Show Cause affords a registrant the
7 opportunity to argue where why a registration
8 should not be suspended or revoked. I think it
9 would be safe to assume the DEA will use this
10 opportunity to get McKesson to implement an
11 ABC-like program."

12 And then finally at the end, it
13 says, "We need to be proactive and implement a
14 program that we develop that will satisfy DEA
15 expectations and is not dictated to us by the
16 agency pursuant to regulatory action. The ABC
17 program is not customer friendly and results in
18 delayed filling and delivery of controlled
19 substance orders to the customer."

20 Now, you weren't brought in in
21 September when there was at least some
22 acknowledgment that a system needed -- a program
23 needed to be implemented and developed, right?

24 A. No.

1 Q. It wasn't until after the -- at
2 least one suspension of a distribution center
3 that Cardinal corporate turned to you and asked
4 you to come into that role?

5 A. Yes.

6 Q. Now, Mr. Fuller talked to you a
7 little bit about threshold limits, and I want to
8 talk to you a little bit more about them.

9 MS. QUEZON: If we could pull up
10 3859, please.

11 BY MS. QUEZON:

12 Q. And while we do that, I take it
13 you entered into some discussions with Deloitte,
14 was it, that helped you with the threshold
15 program?

16 A. Deloitte assisted us in the
17 mechanics of putting together the program that
18 was designed -- you know, that it was designed
19 by Michael Moné, and, I suspect, some of his
20 other team member pharmacists. Deloitte would
21 have been on the -- what I would say is the
22 tactical side of the pieces that we needed to
23 work on to get after it.

24 Q. Okay. So it would have been

1 Moné's theory or general idea of what needed to
2 be put in place to establish the thresholds and
3 then the mechanics of it were handled by
4 Deloitte? Is that --

5 A. Well -- well, I would just say,
6 the Deloitte support guys for that would have
7 assisted other people at Cardinal to put those
8 pieces in place. So there were Cardinal players
9 in this beyond the two Deloitte tactical
10 gentlemen that we had, with Moné instructing
11 them.

12 But also there would have been
13 people from IT working on this and taking the
14 information to work the program, to put the
15 right algorithms in, to -- you know, to do those
16 components. It wasn't just Deloitte.

17 Q. And who would have come up with
18 the algorithms?

19 And if it was a team effort, tell
20 me that, but give me who was heading up the
21 team.

22 A. Michael Moné.

23 Q. Okay. Okay. All right. Are you
24 familiar with the SOP or the standard operating

1 procedure or process to establish SOM threshold
2 limits that I've handed to you?

3 A. I'm recalling it as you've handed
4 it to me.

5 Q. Okay. And, again, this would have
6 been -- and specific questions about it, they
7 would likely be better put to Mr. Moné?

8 A. In this case, I think both
9 Mr. Moné and -- well, definitely, Mr. Moné.

10 Q. Okay. All right. And we can see
11 by its issue date there on the front that this
12 was issued in December of 2008, so that would
13 have been approximately a year after you took
14 the position, correct?

15 A. Yes.

16 Q. And under Previous Issue, it
17 states clearly that this is a new process to
18 establish suspicious order monitoring threshold
19 limits, correct?

20 A. Yeah. That word "new," I don't
21 know about.

22 Q. All I'm saying -- sorry.

23 A. Our policy -- it says -- I'm
24 sorry. You have another question?

1 Q. No, no, go on. You finish. I
2 didn't want to interrupt you.

3 A. Yeah, so it's the only thing I'm
4 looking at that bothers me, because we had
5 already established things, at least in my time,
6 plus back in the earlier times with Cardinal
7 under Steve Reardon, I suspect there were
8 policies and procedures in place.

9 So I don't know why "new" gets in
10 there. At the time Cardinal's going through --
11 as I've said, we go through lots of changes.
12 Corporations do this all the time. You change
13 headers. You put new requirements on what has
14 to be on a document for a policy. So, again, I
15 don't know what the word "new" implies here
16 other than it's saying new here and I --

17 Q. You don't know what "new" means?

18 A. I don't. I -- because we would
19 have had policies and practices before.

20 Q. All right.

21 MR. PYSER: Object to form.

22 Q. Well, let's go ahead and look at
23 the methodology that begins at 4.2 in the bottom
24 of that page, and it states that this is going

1 to be the methodology.

2 And then the next page, "4.2.1,
3 Extract and format list of customers and
4 historical sales data. .2, Differentiate
5 customers through segmentation. Segmentation of
6 customers is preferred but is an optional step.
7 3, Evaluate historical controlled substance
8 sales data per drug family, per month for each
9 customer segment to establish appropriate
10 threshold limits."

11 And then under A and B and on
12 through, "We're going to use that historical
13 data, calculate a threshold limit and then we're
14 going to multiply that" -- and I'm on 6 now,
15 small Roman numeral 6 -- "multiply the monthly
16 quantity for each segment by a factor of 3, 5,
17 or 8."

18 So for the 3 factor is for
19 Schedule II drugs: Hydrocodone, oxycodone,
20 alprazolam, phenetamine drug families, correct?

21 A. Yes.

22 Q. All right. So if I'm
23 understanding this correctly -- and please tell
24 me if I'm wrong -- we're going to figure out

1 what the -- over a year-long historical sales
2 data, if we have it -- unless it's a new
3 pharmacy, obviously -- but if we've got a
4 12-month historical sales data, we're going to
5 take all that, figure out exactly how much, on
6 average, oxycodone is being sold or hydrocodone
7 is being sold by the pharmacy.

8 We're going to take that average
9 and then we're going to multiply it by 3 and
10 that's going to be the threshold. Is that a
11 simple summary of how these thresholds were set?

12 MR. PYSER: Object to form.

13 A. Michael will have to walk you
14 through the exact specific steps. I was not the
15 subject matter expert. I admit it. Michael
16 was. I relied on him. The 3, 5, and 8, I
17 distinctly remember. And what's here in your
18 description was something that we -- in my
19 recollection, is something that we continued to
20 use as DEA guidance from the prior, previous to
21 my coming in and building out and improving this
22 system. The 5 came from Michael inserting a new
23 level to be used as a multiplier.

24 Q. All right.

1 A. That's what I recall.

2 Q. But we know that we are looking at
3 historical sales data to at least get our base,
4 and then we use the multiplier?

5 A. If that says this here, then I
6 have to -- I agree with that.

7 Q. All right. And since this is, at
8 least according to the document, a new standard
9 operating procedure for the setting of the
10 thresholds, we're going to be setting that base,
11 that average sale level, in 2008 going forward?

12 MR. PYSER: Object to form.

13 A. Yes, taking that -- those
14 averages, that data, and the multiplier would
15 establish it for a particular customer.

16 MS. QUEZON: Okay. Let's pull up
17 3800, please, P13800.

18 - - -

19 (Cardinal-Hartman Exhibit 23 marked.)

20 - - -

21 BY MS. QUEZON:

22 Q. Now, I'll give you a minute to
23 take a look at this, but I'll explain basically
24 what this is. This is a summary from the ARCOS

1 data for Cuyahoga County, Ohio. The next page
2 is Summit County, Ohio. And the final one is a
3 combination of the two counties, of both Summit
4 and Cuyahoga.

5 And this is -- if you look in the
6 first column, obviously, it's the years. 1996
7 is when OxyContin came out into the market until
8 2017. And the second column is the total dosage
9 units.

10 And do you see there in 1996 for
11 oxycodone and hydrocodone combined, there was
12 1,324,262 total dosage units?

13 A. Yes.

14 Q. Now, I want us to move up to when
15 we're going to be setting our thresholds.

16 MR. PYSER: Counsel, can you
17 clarify, is this Cardinal Health data
18 or --

19 MS. QUEZON: Yes, just Cardinal
20 Health.

21 MR. PYSER: Thank you.

22 BY MS. QUEZON:

23 Q. So now we're going up to where
24 we're going -- where Cardinal is going to be

1 setting their thresholds, their base before they
2 multiply it by 3 in 2008.

3 And now we're at 13,337,200 total
4 dosage units, correct?

5 A. That's what it says.

6 Q. And that's where we're setting our
7 base for thresholds, right?

8 MR. PYSER: Object to form.

9 A. We're setting our base for
10 12 drugs. Is that what I'm reading?

11 Q. This is oxy and hydrocodone.

12 MR. PYSER: Object to form.

13 A. Okay. You asked me about 2000 --
14 did you say 13,337,000 --

15 Q. -- 200 total dosage units. Yes,
16 sir.

17 A. And is that for 12 drugs? Was it
18 12 drugs?

19 Q. That's for the drugs that contain
20 oxycodone and hydrocodone.

21 A. Just different forms of it?

22 Q. Yes. Yes, sir.

23 MR. PYSER: Object to form.

24 A. Okay. I'm sorry. Your question

1 was?

2 Q. My question was, that's going to
3 be our base number in -- the 2008 number is
4 where we're going to start setting thresholds,
5 correct?

6 A. If this data is accurate and it's
7 Cardinal Health's, I would agree that's probably
8 right --

9 Q. Okay.

10 A. -- for threshold setting.

11 Q. Let's go to the two counties
12 combined, if we can.

13 So in 1996, Cardinal distributed
14 total dosage units of 2,022,506 total dosage
15 units into both Summit and Cuyahoga combined.
16 By 2008 -- that -- it's a 988.08 percentage
17 change to 20,184,956 total dosage units. And
18 it's at that year where we're going to be
19 setting our thresholds, correct?

20 MR. PYSER: Object to form.

21 A. Of course, because those are the
22 products that are available based on the DEA
23 approving ingredients for these drugs to be
24 manufactured to licensed DEA doctors to write

1 prescription for Cardinal's slice of the
2 distribution chain to move legitimate pharma --
3 pharmaceuticals -- and this being a small piece
4 of that, overall pharmaceutical picture to
5 DEA-licensed pharmacies who are dispensing these
6 drugs.

7 Q. Now, you were eventually told,
8 sir, that sending a bunch of limit reports at
9 the end of a month did not fulfill your
10 responsibility under the Controlled Substances
11 Act, correct?

12 MR. PYSER: Object to form.

13 A. I don't know that we were told not
14 to send them. I still believe we were sending
15 them. What we were told is that the guidance
16 from the DEA changed, and we had to respond to
17 that. And that's when I stepped into role. And
18 I can't claim that I began all of the change. I
19 suspect some was happening prior to, and others
20 can talk about that. But that's where I stepped
21 in, took over, and began doing what I did.

22 Q. And prior to you taking over and
23 doing all the things that you discussed with
24 Mr. Fuller, the only thing that you were aware

1 that Cardinal was doing -- and I understand you
2 got this information from your team because you
3 weren't in that section. You weren't in
4 regulatory at the time. But the only thing that
5 you were aware that Cardinal was doing was these
6 monthly end-of-the-month reports that identified
7 suspicious orders that they had already shipped?

8 MR. PYSER: Object to form.

9 A. Again, I don't claim to have great
10 recollection on the forms that were sent in.
11 It's what I'm recalling today as you're talking
12 to me. Yes, that was elements of it. But there
13 were other parts and pieces to the team, to the
14 regulatory body, the group of people working on
15 it who did other things, who did other
16 inspections, and so forth. So it wasn't -- I
17 don't think it was only the reports that went
18 in. I think there were other -- there's
19 certainly other activity in that regulatory body
20 in regards to this. I don't -- I don't recall
21 what all that was or what it was. All I know is
22 what happened once I stepped into role, is my
23 clearest -- my clearest recollection of where we
24 went.

1 Q. And after you stepped into that
2 role, I think you mentioned to Mr. Fuller a
3 number of times that the main thing you were
4 concentrating on is the new -- as you call it,
5 the new guidance of the stop shipment?

6 A. Yes. That was an element of it.

7 Q. Sure.

8 A. There were many -- there were
9 other pieces. I mean, there was the Know Your
10 Customer, you know, the whole idea that they
11 came out with that guidance. To your point, the
12 ABC system certainly gave indications. I don't
13 recall all of what was in there, but this robust
14 system, we certainly grabbed on to that and we
15 took off trying to develop and build our own.

16 Q. And started reporting suspicious
17 orders and not shipping them if they were
18 suspicious?

19 A. Well, again, I'm not going to
20 comment. I don't -- I don't have the -- I don't
21 have the visibility or knowledge of the prior
22 life as reporting suspicious orders, but, yes,
23 under our system, we built and enhanced -- we
24 built an analytics system. We enhanced and

1 improved our prior systems and reported
2 suspicious orders under that.

3 MS. QUEZON: Let's go to 4699
4 please. Theirs is prettier than mine.

5 BY MS. QUEZON:

6 Q. I'll give you a minute to take a
7 look at it.

8 Are you familiar with this type of
9 summary report?

10 A. I recall this, seeing this.

11 Q. Okay. And at the top there, it
12 says, "February 2009 Summary."

13 Do you see that?

14 A. Yes.

15 Q. And it looks like that these are
16 different suspicious order monitoring events per
17 distribution center, different types of summary
18 information for 2008 from March of 2008 to
19 February of 2009, correct?

20 A. It looks like that.

21 Q. All right. Let's go to page 2
22 of 3. And what I want to look at is that -- is
23 that table at the right top corner, "Suspicious
24 orders reported to the DEA."

1 And this is throughout all of
2 Cardinal, correct?

3 A. If that's what the report is
4 about. I don't recall what -- I suspect it is.

5 Q. All right. And do you see, sir,
6 that in August of 2008, September of 2008, and
7 October of 2008, there were zero suspicious
8 orders reported?

9 A. Yes. I see that.

10 Q. A couple of months -- let's see,
11 in June there were two throughout the entire
12 United States. In December, there were two.
13 And in February there were two.

14 Do you see that?

15 A. I see that.

16 MS. QUEZON: Okay. Let's go to --
17 let's go to 3842, please.

18 - - -

19 (Cardinal-Hartman Exhibits 24 - 26 marked.)

20 - - -

21 - - -

22 MS. QUEZON: Oh, I'm sorry. What
23 exhibit number are we on?

24 MS. SHIVERS: 3859 is

1 Plaintiff's 24. Plaintiff 4699 is
2 Plaintiff 25. 3842, which is this last
3 one, is Plaintiff's 26.

4 BY MS. QUEZON:

5 Q. Okay. Now, sir, this is
6 Cardinal's oxy sales to Summa health system
7 in -- on the Akron campus. And do you see from
8 September to October of 2008, there was
9 143 percent increase in oxycodone?

10 Do you see that?

11 A. I see it.

12 Q. All right. And as we just saw in
13 the last Cardinal summary, zero suspicious
14 orders reported for that particular month,
15 correct?

16 A. That's what it says.

17 Q. Let's go to 3834. What number is
18 that?

19 - - -

20 (Cardinal-Hartman Exhibit 27 marked.)

21 - - -

22 MS. SHIVERS: 27.

23 MS. QUEZON: 27.

24

1 BY MS. QUEZON:

2 Q. It says, "Cardinal Oxycodone Sales
3 to CVS #03355."

4 There is a 1,250 percent increase
5 from October to November of 2008 with
6 0 suspicious orders reported.

7 Were you aware of that?

8 A. I don't recall if I was at the
9 time or not.

10 Q. Let's go to 3796.

11 - - -

12 (Cardinal-Hartman Exhibit 28 marked.)

13 - - -

14 BY MS. QUEZON:

15 Q. Are you familiar with due
16 diligence files?

17 A. I recall that we had due diligence
18 files, yes.

19 Q. I'm going to hand you what has
20 been provided to us as the entire due diligence
21 file for that last CVS. And this is a site
22 visit in March of 2016.

23 Now, sir, we can agree --

24 A. This is when?

1 Q. March of 2016.

2 A. March of 2016?

3 Q. Mm-hmm. Yes, sir.

4 A. Okay. So I have left Cardinal.

5 Q. Oh, yeah.

6 We can agree, sir, that with a
7 1,250 percent increase in oxycodone in a month,
8 that at the very least, there should have been
9 some due diligence; can we not?

10 MR. PYSER: Object to form.

11 A. Our system was one where we
12 employed analytics, thresholds, and a
13 professional team to review any order that hit
14 those thresholds and make determinations around
15 them. And that was Michael Moné's team, and I
16 relied on them, and they used other data that
17 they may find. And I have no recollection or
18 would know what's in due diligence files then or
19 back in 2010.

20 Q. I'm going to ask you as head of
21 that regulatory division, can we at least agree
22 with a 1,250 percent increase in a month, that
23 there should be some explanation?

24 MR. PYSER: Object to form.

1 A. And, again, my professional team
2 with pharmacists would review those orders if
3 they had hit thresholds and would have done some
4 due diligence if they felt required.

5 MS. QUEZON: Let's do 3837.

6 - - -

7 (Cardinal-Hartman Exhibit 29 marked.)

8 - - -

9 BY MS. QUEZON:

10 Q. Plaintiff 29.

11 Sir, this is the OxyContin sales
12 to CVS 03083. And so we're clear, these are all
13 in Ohio in Cuyahoga or Summit County.

14 Again, we have a 434 percent
15 increase from August to October 2008. There
16 were 0 suspicious orders reported. And not --
17 and no due diligence file.

18 Can we agree that that is
19 inappropriate?

20 MR. PYSER: Object to form.

21 A. The system that we were working
22 with was one where we had built an
23 anti-diversion team that had analytics and a
24 process that anytime they hit thresholds, to

1 then review and determine if actions were needed
2 to be taken. If they were, they were brought to
3 my attention. I don't recall what happened here
4 or anything about the account.

5 Q. Let's take a look, Mr. Hartman, if
6 we can, how the system worked before you got --
7 you were appointed to that position, during the
8 time that you were appointed to that position,
9 and after in the State of Ohio.

10 - - -

11 (Cardinal-Hartman Exhibit 30 marked.)

12 - - -

13 MR. FULLER: Let's take 3865,
14 please.

15 BY MS. QUEZON:

16 Q. Now, I want to remind you real
17 quick the -- that Ohio specifically was one of
18 the states that in 2003, the GAO report to
19 Congress said, this is one of the states that is
20 getting hit harder than others for whatever
21 reason.

22 In your position, did you ever
23 look at those specific states when you became
24 aware in December of 2007 that this state was

1 getting hit harder than others in the United
2 States? Did you ever compare it to what was
3 maybe happening in Illinois or in California?

4 MR. PYSER: Object to form.

5 A. I don't recall whether I did that
6 or not.

7 Q. Do you know if anyone from your
8 team did that?

9 A. I know we went through a
10 tremendous amount of analytics, comparisons
11 looking at the system. I can't tell you that I
12 know specifically that that happened, but I do
13 know that we worked very hard at trying to
14 compare the data that we had as to what we were
15 going to do.

16 And, of course, we're working on
17 the whole United States with a system that we
18 were putting in place to be in compliance with
19 the DEA guidelines that we felt were new, that
20 we had to respond to, and make sure it was
21 rolled out across the country.

22 Q. Well, let's look --

23 A. So, no, I don't know that we
24 actually compared state by state. It might have

1 been done.

2 Q. Well, let's do it. And I picked
3 Illinois for a reason. Because Illinois is
4 pretty close geographically to Ohio, and
5 Illinois has a million more people in its
6 boundaries than Ohio does. But they're pretty
7 comparable when it comes to geography and to
8 population. If you can look with me in 2006.

9 MS. QUEZON: And if we can do
10 the -- let's do the PowerPoint.

11 All this is is just a
12 demonstrative aid of the actual numbers
13 here. If we can look in 2006 in
14 Illinois, there were 4,964,195 dosage
15 units of oxycodone shipped only by
16 Cardinal into Illinois. In that same
17 year, 67 million pills shipped into
18 Ohio.

19 Now, I understand this is during
20 the period of time when suspicious orders, at
21 least according to what you were told, were not
22 being halted. They -- that requirement was not
23 yet there. But let's keep looking.

24 In 2007, about 6 million pills

1 into Illinois, and into Ohio almost 73 million
2 pills with a population of a million fewer
3 people.

4 Did you know this was going on?

5 MR. PYSER: Object to form.

6 A. I personally became aware --

7 Q. Around 2007?

8 A. -- in December 2007.

9 Q. Well, let's go ahead and get
10 there.

11 In 2008, 6 million pills into
12 Illinois. 75 million pills -- 75.5 million
13 pills into Ohio. In 2009, about 7 million
14 pills. 85 million pills into Ohio.

15 Now, sir, if we -- if we go back
16 to our simple -- our simplified premise that the
17 more pills that had flooded into a community,
18 the higher the likelihood of abuse and
19 diversion, can you start to get a picture of why
20 Ohio suffered so much more greatly than other
21 places?

22 MR. PYSER: Object to form.

23 A. What I do know is my own narrative
24 about what's going on here, and it begins with

1 our government.

2 Q. Do you take any responsibility?

3 Any responsibility, sir?

4 MR. PYSER: Object to form.

5 Please let the witness answer the
6 question.

7 Q. This isn't the government putting
8 the pills into Ohio. This is your company.

9 MR. PYSER: Object to the form.

10 A. These pills -- these pills are
11 available because the DEA, who is the licensee,
12 sets the quotas for a distributor to fulfill
13 orders from licensed DEA pharmacies for
14 prescriptions written by licensed DEA doctors.
15 That's what I know at the time, other than my
16 head was down, banging away at trying to get my
17 company in a position that we had responded to
18 the DEA's immediate suspension orders, to get
19 our systems in place in response to those so
20 that we could get our licenses back, serve our
21 customers -- that's what I know.

22 Q. Mr. Hartman, had you known in
23 2007, had you done this analysis when you came
24 in, or 2008, and you knew that for a state with

1 a million fewer people, you were sending in ten
2 times the amount of oxycodone, would you have
3 done something differently?

4 MR. PYSER: Object to form.

5 A. I don't know.

6 MS. QUEZON: Can we total this?

7 BY MS. QUEZON:

8 Q. When all is said and done, sir,
9 Cardinal sent in to the State of Ohio
10 [REDACTED] pills, and into Illinois, with a
11 million more people in it, [REDACTED] pills?

12 MR. PYSER: Object to form.

13 MS. QUEZON: Could we take just
14 about five minutes, and I may be just
15 about through.

16 THE VIDEOGRAPHER: The time is now
17 5:27. We're going off the record.

18 (Recess taken.)

19 THE VIDEOGRAPHER: The time is now
20 5:35. Back on the record.

21 BY MS. QUEZON:

22 Q. Mr. Hartman, I just have a couple
23 more questions.

24 First of all, and if it's for

1 personal reasons, you can just say it's for
2 personal reasons. But why did you end up
3 leaving Cardinal?

4 A. Another job.

5 Q. Okay. Now, you've made it very
6 clear that you are upset with our government
7 over the DEA quotas. Let me start off by
8 asking, do you understand what those quotas
9 actually mean and how they're set by the DEA?

10 A. If I did, I don't recall. I
11 couldn't state it today.

12 Q. Do you know whether or not the DEA
13 relies upon information given to them by
14 manufacturers and distributors in setting the
15 quotas?

16 MR. PYSER: Object to form.

17 A. That would certainly seem right.

18 Q. So if the DEA has mistakenly set
19 quotas, it would be as a result of information
20 given to them by the distributors and the
21 manufacturers?

22 A. No, I don't agree with that at
23 all.

24 MR. PYSER: Object --

1 Q. Do you know one way or the other,
2 sir; do you know even how they're set? You told
3 me you didn't.

4 A. Well --

5 MR. PYSER: Object to form and
6 same objection on the last question as
7 well.

8 A. At the point in time we're at, and
9 when we look at the fact that DEA never cut
10 quotas until -- what? 2014? And even at that
11 time, they maintained, I believe, an article
12 said 25 percent contingency. It seems to me, my
13 narrative, that there was plenty of pure
14 evidence to suggest this crisis going on that
15 you're talking about.

16 Q. Sort of like increasing
17 thresholds, right?

18 MR. PYSER: Object to form.

19 A. Our process was to review and set
20 thresholds according to pharmacies dispensing
21 legitimately written scripts from DEA-licensed
22 doctors at DEA-licensed pharmacies.

23 Q. And the DEA was relying on the
24 manufacturers and the distributors to set the

1 quotas, weren't they?

2 MR. PYSER: Object to form.

3 A. The DEA had a set of guidance that
4 they had provided to us, I learned about in
5 2007, December, and then we set out to get after
6 that process of setting those thresholds in my
7 time frame.

8 Q. I'm talking about the quotas.
9 Just like you were trying to explain to me that
10 you relied on the dispensers, on the pharmacy to
11 set your thresholds, the DEA relied on
12 information from the distributors and the
13 manufacturers to set the quotas; didn't they?

14 MR. PYSER: Object to form.

15 A. I don't know. That's what you're
16 telling me.

17 MS. QUEZON: Okay. I don't have
18 anything else.

19 MR. PYSER: I've got some
20 questions.

21 MS. QUEZON: Want to switch?

22 MR. PYSER: Given the cameras, why
23 don't we switch.

24 MS. QUEZON: Sure.

1 THE VIDEOGRAPHER: The time is now
2 5:39. We're going off the record.

3 (Pause in proceedings.)

4 THE VIDEOGRAPHER: The time is now
5 5:40. Back on the record.

6 - - -

7 REDIRECT EXAMINATION

8 BY MR. PYSER:

9 Q. Good afternoon, Mr. Hartman. My
10 name is Steve Pyser. I represent Cardinal
11 Health. I have a few questions for you
12 following up on the examination from Plaintiffs.

13 You spoke a little bit about your
14 background, but I wanted to make sure we got the
15 full picture. Can you just introduce yourself
16 to the jury and tell us about your education.

17 A. Okay. I'm Mark Hartman. My
18 formal education was at United States Military
19 Academy, West Point. I was there from 1975 to
20 1979, and I consider greatly part of my
21 leadership training also included that I'm an
22 airborne ranger and attended those schools and
23 earned their -- and earned those credentials.

24 Q. After you graduated West Point, I

1 assume you served in the Army for a period of
2 time?

3 A. I did.

4 Q. About how long?

5 A. Five years.

6 Q. And after you left the service,
7 what was your job experience before joining
8 Cardinal Health?

9 A. Quick run was I worked for
10 American Hospital Supply, a distributor, for
11 about four years. I worked for Pepsi-Cola for
12 ten years. I worked for one year for a auto
13 parts supplier, about one year, and then that
14 led me to Cardinal Health for my next 12-plus
15 years.

16 Q. Okay. And you may have already
17 said, but approximately what year did you join
18 Cardinal?

19 A. 1998.

20 Q. And can you take me through --
21 you've talked a lot today about the job you took
22 in December 2007, but can you take me through
23 the lead-up to some of the other jobs that you
24 held at Cardinal before 2007.

1 A. And prior to Cardinal, I had a
2 fair amount of experience as a general manager
3 in the -- in a distribution world at Pepsi-Cola.
4 I came into Cardinal in a very similar kind of
5 job. I had at the time three distributions
6 centers, which we consolidated into one in
7 Aurora, Illinois. I had approximately
8 200 employees, and I had a staff that supported
9 me and a sales team, and we represented a chunk
10 of the Midwest region, and we did approximately
11 \$1.3 billion in revenue.

12 After that role for not quite --
13 well, maybe a little over a year, I was brought
14 to our headquarters as a senior vice president
15 of operations. So in that role, I supported all
16 the field locations and those functions with
17 logistics, policies, procedures, and
18 efficiencies. We were doing a lot of building
19 at that point. I had a team of engineers where
20 we built the facilities. And then, of course,
21 helped them transition into them and so forth in
22 many of the various roles there, in that
23 operations role.

24 From there I went to -- I was

1 executive vice president of field sales and
2 operation. I reported to our president. I had
3 the part of the company where we had the -- a
4 general management structure with -- at that
5 point, the 24 distribution centers reporting in
6 through that team to me. 5,000 employees. I
7 think at that point, we were about \$40 billion
8 in sales.

9 And then I went into the EVP of --
10 I can't remember the title we had now. It's the
11 transformation. So I talked a little bit about
12 it about earlier today. We had a major
13 transformation going on trying to reorganize and
14 make our back office much more efficient. And I
15 had various departments and people under me and
16 scrutiny on these transformations that were
17 going on in the various departments. And we
18 would try to work with them, consolidate,
19 counsel, advise.

20 And then I was -- I was -- I
21 went -- stayed in that role principally to this
22 role.

23 Q. So fair to say prior to taking
24 over the anti-diversion related role that you

1 had in December 2007, you've been at fairly high
2 levels of Cardinal Health?

3 A. Yes.

4 Q. From your perspective, having
5 worked in different -- excuse me -- areas of
6 Cardinal Health, what is Cardinal Health's role
7 in the healthcare system in the United States?

8 A. Well, I can't remember our
9 moniker, but, I mean, principally it's to
10 deliver medications, you know, through our
11 supply chain to, you know, the licensed
12 pharmacies, hospitals, and any of the legal
13 entities in a safe, secure way, in order to
14 ensure that those products are available for
15 patients when they need them.

16 Q. The portfolio of products that are
17 being shipped to hospitals and pharmacies and
18 other medical care facilities, are they broader
19 than the controlled substances that have been
20 talked about earlier today?

21 A. Much broader. There was --

22 Q. Does Cardinal Health also ship
23 medical supplies, in addition to
24 pharmaceuticals?

1 A. Yes.

2 Q. So everything from aspirin to
3 crutches; is that kind of the concept?

4 A. Band-Aids. Whatever is needed in
5 locations is generally something we would have
6 supplied.

7 Q. If you could, just give us a
8 little view of kind of what the team was that
9 you were working with in terms of the senior
10 leadership in an anti-diversion or QRA role in
11 December 2007 when you came into the role.

12 A. Michael Moné was where I met him,
13 because he was in role just a bit prior to me
14 stepping into role. Of course, I got to know
15 Michael much, much better.

16 But what I knew going in is that
17 Michael was a degreed pharmacist. He was a
18 degreed lawyer in the regulatory space, as I
19 recall remembering that. And the key part for
20 me was that he had come out of Cardinal from the
21 Medicine Shoppe business, but he had worked
22 prior to that on the Kentucky pharmacy board,
23 and he had put in place the Kentucky program to
24 monitor or for doctors, I believe, to use.

1 So I don't remember exactly what
2 interactions he had on that, but I know he
3 played a key role. But that was important to me
4 because he seemed to have all the credentials as
5 we were working in this anti-diversion space.

6 Q. And when you took over, did you
7 have the budget that you needed to staff out the
8 regulatory department and anti-diversion team?

9 A. I -- everything that I needed, I
10 had, and I had that commitment from the CEO.
11 And even as that changed, we continued to have
12 that support.

13 Q. Was there ever a time during your
14 work with QRA and anti-diversion from 2007
15 through 2010 where you asked for additional
16 resources and were told no?

17 A. No.

18 Q. Did you believe at the time when
19 you were working anti-diversion that the program
20 had adequate resources?

21 A. During my time frame?

22 Q. Yes.

23 A. Yes.

24 Q. All right. On the regulatory side

1 of your work, was there someone else there in
2 addition to Michael Moné?

3 A. Steve Reardon.

4 Q. And what were Mr. Reardon's
5 general job duties?

6 A. I got to know Steve when I -- he
7 was at Cardinal prior to me, and so, of course,
8 I worked with him from time to time, you know,
9 in his capacity in regulatory the whole time.
10 But prior to Cardinal, my understanding was
11 Steve was a Boston police officer for several
12 years. I don't remember if he retired from that
13 job or not, but I know he worked at it for many,
14 many years.

15 Q. So coming in, did you believe that
16 both Mr. Moné and Mr. Reardon were qualified for
17 the positions they held?

18 A. I felt very comfortable about it
19 and I -- it's another aspect of -- a part that I
20 talked to our CEO about was that I wanted that
21 team in place.

22 Q. When you were working in
23 anti-diversion, in order to understand what the
24 Controlled Substances Act required, did you

1 consider DEA policies and guidance in your work?

2 A. Prior to this role?

3 Q. No. When you were working in
4 anti-diversion, in order to understand what the
5 Controlled Substances Act required, did you
6 consider DEA's policies and guidance from DEA?

7 A. Yes.

8 Q. To your knowledge, did DEA's
9 policies and guidance change over the course of
10 time?

11 A. Yes.

12 Q. Prior to your time in
13 anti-diversion, what's your understanding of
14 what DEA's general requirements were for
15 anti-diversion?

16 A. Well, again, I'm -- I don't -- I
17 don't have great recollection on this. I didn't
18 study it closely, but the company was required
19 to submit reports monthly. They went in at the
20 end of the month. The headquarters location
21 would aggregate the data for the field
22 locations, to my understanding, and then send it
23 in.

24 Q. During the time that you were

1 running the anti-diversion team, did Cardinal
2 Health ship orders that it had made a
3 determination qualified as a suspicious order?

4 A. No.

5 Q. But in earlier times, your
6 understanding, was Cardinal Health always
7 required under the Controlled Substance Act to
8 stop shipment of orders that it reported to DEA
9 as suspicious?

10 A. That's what I was made aware of,
11 was one of the major changes, this not.

12 Q. So the question of whether
13 Cardinal should or should not ship orders that
14 it had determined were potentially suspicious
15 orders, is the answer to that question dependent
16 on the time period we're talking about?

17 A. Yes.

18 Q. Do you know approximately when
19 Cardinal changed its system to ensure that
20 orders were not shipped in addition to having
21 been reported to DEA?

22 A. That was prior to me stepping into
23 role.

24 Q. So sometime prior to

1 December 2007?

2 A. That's what I understood.

3 Q. While you were in the
4 anti-diversion role, did DEA ever conduct
5 inspections or site visits of Cardinal Health
6 facilities?

7 A. Yes.

8 Q. Were you present during some of
9 those?

10 A. Yes.

11 Q. Generally speaking, what were the
12 results of those visits from DEA during your
13 time in anti-diversion?

14 A. They were rigorous, in-depth
15 inspections, and from them we had already
16 regained our licenses, so we were operating all
17 of our distribution centers. The inspections
18 then take place. And from that, we had no
19 actions or issues running our complete supply
20 chain. So the results of the inspections, in my
21 view, were we passed and did very well.

22 Q. You've talked today a little bit
23 about different pieces of Cardinal Health's
24 anti-diversion program at the time that you were

1 running it, but I don't know that we've kind of
2 put it together.

3 Can you just take me through, in
4 your mind, what the major elements of the
5 anti-diversion system were -- was during your
6 time at Cardinal.

7 A. I'm not sure I'll get it all,
8 because it was -- we had a lot to do to build
9 out and expand, and the key components were the
10 analytics system. So a system that we built
11 upon that allowed us to have thresholds across
12 the organization's customers, that had
13 thresholds attached, and then every order that
14 went through for a controlled substance would be
15 monitored against that analytics system to
16 determine if a threshold was hit.

17 And then if a threshold was hit,
18 then the team of professionals I had, they would
19 take a look at that -- they would look for other
20 information that may have caused some reason for
21 that threshold to hit, and then make a
22 determination on that. Sometimes I was brought
23 into those conversations. Many times I wasn't,
24 as they made decisions as a professional team

1 with what I felt were strong pharmacists in
2 place.

3 Q. Was there -- were there other
4 elements besides the analytics?

5 A. And then another big piece was the
6 Know Your Customer, and we designed training to
7 address a much broader Know Your Customer
8 component. We rolled that out across our system
9 to -- and we rolled it through the -- you know,
10 the sales management staff and then down to our
11 field staff.

12 We rolled it through our
13 distribution centers, certainly our compliance
14 officers that we talked about we had put in
15 place. It was in each of the distribution
16 centers. So Know Your Customer became a big
17 element of what we did.

18 Q. Did you also conduct site visits
19 during your time leading the anti-diversion
20 team? Not you personally but the team.

21 A. Yeah, the investigators that we
22 had put in place, along with compliance officers
23 and, of course, the field staff that we had
24 would conduct site visits to determine if -- and

1 I'm pretty certain the term came from the DEA,
2 the red flags existed that would be reported
3 back into -- into us.

4 Q. So shifting gears a little bit.

5 Earlier today you were asked some
6 questions, and you don't need to look at the
7 exhibit but just to put it in context.

8 Exhibit 7 discussed a budget battle.

9 Do you recall that conversation?

10 A. Yes. Yes.

11 Q. And there was a discussion in that
12 e-mail about head count.

13 Do you recall that?

14 A. Yes.

15 Q. Okay. I don't think you were ever
16 asked how that issue resolved or if you know.

17 How did that issue resolve, if you
18 know?

19 A. Personal exchange with Michael,
20 and he was going through the budget battle for a
21 head count. He maintained that head count.

22 Q. It's a little bit corporate speak.
23 Can you explain what you mean by "he maintained
24 that head count."

1 A. It -- well, in the budget fight
2 of, you know, do you lose a head count and it
3 goes to somebody else, if you will, he
4 maintained it. Exactly what he had and wanted
5 remained the same, as I understand what the
6 later e-mails that he had sent that, you know,
7 he had won the battle.

8 Q. You were asked -- also asked about
9 the potential of the QRA group being moved into
10 a position that it would be part of operations.

11 Do you know whether QRA remained
12 separate from operations after your time at
13 Cardinal?

14 A. During my time frame, it certainly
15 was, and I believe after I left, it remained
16 separate from the operating divisions reporting
17 to corporate.

18 Q. Earlier today you were also asked
19 some questions about particular distribution
20 centers, in particular, the Birmingham, Alabama,
21 distribution center and the Lakeland, Florida,
22 distribution center.

23 Do you remember those questions?

24 A. Yes.

1 Q. And there were some exhibits,
2 Exhibits 14 and 15 that concerned those -- those
3 distribution centers actually before you were in
4 role, I believe.

5 Do you recall that?

6 A. Yes.

7 Q. In addition to whatever steps for
8 anti-diversion were being taken at the
9 distribution centers back in 2006 and 2007 when
10 those e-mails were being sent, was there also a
11 corporate anti-diversion system that was
12 monitoring orders?

13 A. To my knowledge, yes.

14 Q. And looking at those two
15 distribution centers for a minute, in particular
16 the Birmingham, Alabama, and Lakeland, Florida,
17 distribution center, in your experience at
18 Cardinal Health, did either of those two
19 distribution centers ship medication to northern
20 Ohio?

21 A. No.

22 Q. At any time while you were at
23 Cardinal, are you aware of an instance where the
24 sales staff or anyone else blocked the

1 anti-diversion team from taking an action
2 against a customer that your team wanted to
3 take?

4 A. No.

5 Q. Did you personally ever take steps
6 to increase the number of opioids that would be
7 prescribed by doctors or used by patients?

8 A. No.

9 Q. Did you ever speak to a doctor
10 about controlled substances in your role?

11 A. No.

12 Q. In your experience at Cardinal
13 Health, did you ever see Cardinal Health ship an
14 order that you believed would be diverted?

15 A. No.

16 MR. PYSER: No further questions.

17 We can go off the record.

18 THE VIDEOGRAPHER: The time is now
19 5:59. Off the record.

20 (Recess taken.)

21 THE VIDEOGRAPHER: The time is now
22 6:03. Back on the record.

23 - - -

24 RECROSS-EXAMINATION

1 BY MR. FULLER:

2 Q. Mr. Hartman, you've testified
3 repeatedly about these limiter reports, right,
4 that were submitted monthly?

5 A. Yes, I've commented on them.

6 Q. And you're aware, are you not,
7 that the limiter reports are only submitted for
8 those substances and entities that exceed their
9 limits, correct?

10 A. I don't recall exactly what these
11 reports were about prior to. I know what
12 reports were talked about, what the team
13 responded to to the DEA and were required to
14 submit. And then they did that on a monthly
15 basis, and it was at the end of the month that
16 those reports went in.

17 Q. And who at the DEA said that was
18 okay; do you know, or are you relying on your
19 people to tell you that?

20 A. My folks commented on that.

21 Q. So you have no knowledge of the
22 DEA approving that process, do you?

23 A. Prior to my time in role, I don't
24 have the conversations with the DEA. My

1 folks -- the people that worked for me at the
2 time did.

3 Q. Fair enough.

4 So, again, I guess my question is,
5 no one at the DEA ever told you that that was
6 acceptable?

7 MR. PYSER: Object to form.

8 A. Correct.

9 Q. And then -- and I apologize
10 because I missed the first one.

11 When you first came to Cardinal,
12 what was it that you were doing, you told me
13 Pyser you were doing?

14 A. I was a regional vice president
15 for the Midwest region.

16 Q. How many people did you oversee?

17 A. Probably about 200, somewhere in
18 that range.

19 Q. And what was your budget?

20 A. Budget for?

21 Q. Your entire budget, the money you
22 had control of for the Midwest region.

23 A. I have -- I don't recall what the
24 budget was.

1 Q. So then you moved to senior vice
2 president of operations, right, support all the
3 field, had an engineering team underneath you --

4 A. Yes.

5 Q. -- correct?

6 How many people did you oversee
7 then?

8 A. There were four or five different
9 components doing different things.

10 Q. Yes, sir.

11 A. I'm guessing that 20 to 25.

12 Q. Do you know what your budget was
13 for -- as a senior VP of operations?

14 A. I don't recall.

15 Q. How about the executive vice
16 president of field sales and operations? You
17 reported to the president at that time, right?

18 A. Of pharmaceutical, yes.

19 Q. And then you were overseeing about
20 5,000 employees?

21 A. Yes.

22 Q. Generating revenue of over
23 \$40 billion in sales?

24 A. Yes.

1 Q. What was your budget for that
2 department?

3 A. I have -- I have no idea what we
4 had at that point.

5 Q. And then you took on the executive
6 vice president role for transformation?

7 A. Yes.

8 Q. And how many people did you
9 oversee during that time frame?

10 A. Again, it was -- I -- I'm guessing
11 at somewhere between 10 and 15.

12 Q. Do you know what your budget was
13 for that department?

14 A. I have no recollection.

15 Q. And, again, you would have gone
16 through that budgetary process we saw earlier
17 for all these different departments during those
18 respective years, correct?

19 A. Oh, yes. And all the jobs
20 previous to that and every other company. I
21 went through the annual budget process. It's
22 a -- it's a fun experience.

23 Q. And you testified, I think, that
24 the mantra for Cardinal was to deliver meds via

1 supply chain to pharmacies and hospitals in a
2 safe and secure way; is that correct?

3 A. Something like that. I don't know
4 the exact quote, but --

5 Q. We won't hold you to you exactly.

6 A. Yeah, so --

7 Q. But certainly it was to do it in a
8 safe and secure manner, right?

9 A. Of course.

10 Q. Do you believe --

11 A. Yes.

12 Q. Strike that.

13 Cardinal didn't always do it in a
14 safe and secure manner, did they?

15 MR. PYSER: Object to form.

16 Q. They had their license pulled
17 because it wasn't always in a safe and secure
18 manner.

19 A. Those -- I'm sorry.

20 MR. PYSER: Object to form.

21 Go ahead.

22 A. Those were the accusations that
23 the DEA leveled against us.

24 Q. Then in 2013, they actually agreed

1 with the accusations when the Florida license
2 was suspended; are you aware of that?

3 A. Not to my knowledge. It was after
4 my time.

5 Q. Were you aware that -- well, I
6 understand that. But when Mr. Pyser was asking
7 you questions, you responded -- and I'm assuming
8 honestly -- to questions after your time and
9 before your time in this role. So I would
10 expect the same courtesy for my questions.

11 A. I don't have any knowledge.

12 MR. PYSER: Object to form.

13 Q. Were you aware they paid a
14 \$35 million fine for their conduct?

15 MR. PYSER: Object to form.

16 A. Not 35 million.

17 Q. In 2013, based on the MOA that
18 was --

19 A. I'm sorry. You were -- I thought
20 you were -- during my time frame.

21 Q. That was 13 million.

22 A. No. I think it was different than
23 that.

24 Q. What do you believe it was?

1 A. 34 million.

2 Q. Fair enough.

3 MR. FULLER: That's another time.

4 BY MR. FULLER:

5 Q. You testified to Mr. Pyser that
6 the DEA policy and guidance changed. And,
7 again, that was told to you by your
8 subordinates, correct?

9 A. Yes.

10 Q. That wasn't conversations you had
11 with the DEA?

12 A. No.

13 Q. And then you mentioned something
14 that -- this was the first time I heard it, and
15 maybe I misheard, that the stop shipping
16 requirement was instituted at Cardinal before
17 you came to the department.

18 A. That's what the team had put in
19 place and they told me. That was the major
20 change. I don't know when that took place, but
21 as I got into role, my understanding was they
22 had begun that process, and I don't know when
23 that happened.

24 Q. Well, they'd begun the process or

1 they had fully implemented it? Because when you
2 started implementing your Phase I and Phase 2,
3 it took over a year to fully implement it,
4 correct?

5 A. I think that's accurate.

6 Q. So I want to make sure when you
7 testified to Mr. Pyser and said they had already
8 implemented the stop shipping, they had not
9 implemented it across the board, correct?

10 A. I don't know that. I only know
11 when I got into role, that was the major -- that
12 was one of the major changes that the DEA had
13 now guided on. And my understanding is they
14 stepped in the role in December, so mid time
15 period, that somewhere before that, they had
16 begun the stop shipping piece of that guidance.

17 Q. They had begun it, is your
18 understanding?

19 A. Yeah.

20 Q. Did -- had they completed it or do
21 you know?

22 A. I don't recall. I don't have a
23 recollection.

24 Q. So you can't say that they had

1 already stopped shipping all suspicious orders?

2 A. I -- I don't know that.

3 Q. Fair enough.

4 And then when you were talking to
5 Mr. Pyser about the major elements of this
6 suspicious order monitoring program that you
7 were implementing, also at the same time created
8 was a anti-diversion committee, correct?

9 Do you recall an anti-diversion
10 committee?

11 A. I think we had one in place for
12 some period of time. I don't -- I don't
13 remember much about it.

14 Q. Okay. Do you remember who was on
15 the committee?

16 A. When I came into role, it was a
17 pretty difficult time. So I remember there were
18 two meetings taking place each morning, pretty
19 early and then one right after. I stopped one
20 of the meetings to consolidate and have one
21 meeting so we could get to the work.

22 Q. Sure.

23 A. And then there was -- there's some
24 point after that I believe that we -- and I --

1 and I just wanted everybody out of our way.

2 There were a lot of questions. You know, as you
3 can imagine with three suspension orders, there
4 was an awful lot of meetings people wanted to
5 have and we needed to get after the work.

6 So I believe there was -- I think
7 there's a committee we put together of senior
8 members so that I could update them where I --
9 where we were, what we needed or, you know, if I
10 needed things. Then that took place for -- I
11 can't remember. For a few months maybe?

12 Q. Do you remember who chaired that
13 committee?

14 A. I remember I think I did all the
15 talking.

16 MR. FULLER: Let's pull up 4463.

17 A. I'm not sure what meeting you're
18 talking about.

19 BY MR. FULLER:

20 Q. I'm not talking about a meeting.
21 I'm talking about committee. Who chaired the
22 committee.

23 And if you look at this

24 Exhibit 4463, which is Plaintiff's Number --

1 MS. SHIVERS: 31.

2 Q. -- 31 for purposes of the
3 deposition. This is an e-mail --

4 MR. FULLER: Why does mine look
5 different?

6 (Discussion off the record.)

7 - - -

8 (Cardinal-Hartman Exhibit 31 marked.)

9 - - -

10 BY MR. FULLER:

11 Q. I apologize about that,
12 Mr. Hartman.

13 4463 is an e-mail from
14 Jeff Henderson; is that right?

15 A. Yes.

16 Q. And Jeff Henderson was the CFO
17 during this time frame; is that correct?

18 A. Yes.

19 Q. And the subject is what for this?

20 A. "Anti-Diversion Steering
21 Committee."

22 Q. Okay. And Mr. Henderson says,
23 "Effective immediately, we're putting into place
24 an Anti-Diversion Steering Committee (ADSC)

1 composed of six of us, facilitated by
2 Mark Hartman and chaired by me."

3 Is that right?

4 A. That's what it says.

5 Q. "The group's basic objective is to
6 assume sole leadership for ensuring our
7 anti-diversion programs are comprehensive, being
8 implemented effectively, and are meeting our
9 basic mission of delivering safe supply chain
10 services to our customers."

11 Right?

12 A. That's what it says.

13 Q. And that "We also have the
14 responsibility of making decisions which impact
15 the implementation of our diversion control
16 plan."

17 And then he attaches a couple
18 documents. I believe if you go to the page 2 --
19 actually, it's page 3, because page 2 is a
20 little jacked up. And that's a legal term.

21 So this page 3 says

22 "Anti-Diversion" --

23 A. Is it different than my jacked
24 up --

1 Q. No. Probably the same.

2 A. Okay.

3 Q. So page 3 indicates it's the
4 anti-diversion steering committee chaired by
5 Jeff Henderson. And give us the committee
6 members.

7 A. Committee: Gary Dolch,
8 Mike Duffy, Steve Falk, Mark Hartman,
9 Scott Storrer. Optional attendees: Kerry Clark
10 and Ivan Fong.

11 Q. And who's Scott Storrer? Didn't
12 we talk about him earlier?

13 A. No.

14 Q. Who is it that sent you an e-mail
15 that was outside of the company at the time?

16 A. Strat Sherman is who you're
17 referring to, I think.

18 Q. Got it. I apologize.

19 A. Yeah.

20 Q. And additional attendees,
21 Kerry Clark, who is at this time the CEO of,
22 we'll call it, "big Cardinal," over everybody,
23 right?

24 A. Yes.

1 Q. And who's Ivan Fong?

2 A. He was the head legal officer.

3 Q. So he's a lawyer?

4 A. Yes.

5 Q. At least we hope so.

6 A. Yes.

7 Q. And the charter, read the charter
8 to us.

9 A. "Charter: Oversee progress of
10 diversion control plan. Establish priorities
11 and align resources. Coordinate tone at the top
12 and culture of compliance training. Establish
13 policies as needed. Establish improvement
14 actions to address outcomes of third-party
15 audits and DEA requests."

16 Q. As indicated there, just below
17 that, Jeff Henderson is the chair.

18 Mr. Henderson is the chairman of
19 this committee, correct?

20 A. Yes.

21 Q. And then it lists the rest of the
22 members and sort of puts, I guess, job
23 descriptions underneath them; is that fair?

24 MR. PYSER: Counsel, we're now

1 well beyond the scope of the examination
2 that I did, so I'm going to object to
3 this line of questioning.

4 MR. FULLER: Sure. Objection well
5 noted.

6 Q. Go ahead. You can answer.

7 A. Your -- your reference to some
8 sort of call-out of jobs, I would say, is
9 accurate.

10 Q. Because under you it has
11 IT systems with Mr. Reardon, diversion control
12 and policies and procedures.

13 I guess that's Michael Moné; is
14 that right?

15 A. Yes.

16 Q. And then QRA organization, you get
17 to boss yourself, right?

18 A. It appears that way.

19 Q. And Scott Storrer, sales force
20 alignment, business continuity.

21 Is -- Mike Duffy, what was his
22 role, do you remember, or position?

23 A. At that time I believe he was
24 running operations for Cardinal. Now, I don't

1 recall if it was pharmaceutical, medical, or
2 pharmaceutical and medical.

3 Q. Fair enough.

4 And then Steve Falk. Who is
5 Steve Falk?

6 A. Steve was a -- was -- I don't know
7 at this time, but he became general counsel.

8 Q. Okay. Because it says
9 "Third-Party Audit & DEA Matters," right?

10 A. Yes.

11 Q. And Gary Dolch, it really doesn't
12 give him anything.

13 What was Mr. Dolch's position at
14 this time; do you remember?

15 A. I reported to him. I should. I
16 think it was too long ago. He was EVP,
17 regulatory affairs, for Cardinal Health. So,
18 again, like Kerry, the whole big company.

19 Q. Got it. Got it.

20 And then if you turn, I believe,
21 another page. This is an outline of key actions
22 on anti-diversion.

23 Do you see that?

24 A. I do.

1 Q. It was actually generated the day
2 before your announcement that you were coming
3 back. At least it has December 18th and we know
4 by the announcement that was sent out, it was on
5 the 19th?

6 A. It looks that way.

7 Q. Maybe you told them yes the day
8 before they sent the e-mail.

9 A. Maybe they anticipated it.

10 Q. That could be, too.

11 So -- and we don't need to go into
12 detail, but this sort of sets out the action, as
13 well as the status of the action, that are going
14 to be taken in relation to this anti-diversion
15 steering committee that Mr. Henderson was
16 heading up, correct?

17 A. At that time, right. I think
18 that's right.

19 Q. And these meetings, if I -- I
20 believe I read somewhere they were -- was it
21 every morning or twice a week in the morning?

22 A. Not this meeting.

23 Q. How about these meetings?

24 A. These meetings. So as I came on

1 board, every morning there were two meetings. I
2 don't remember exactly when they started. I'm
3 going to say the first one was 7:30 to 8:30, and
4 that was the Gary Dolch meeting.

5 Q. When you say "Gary Dolch," just
6 give me a brief description of what you mean.

7 A. Gary Dolch called members together
8 to review where are we at, what are we doing.

9 Q. Fair enough.

10 A. And then there was another meeting
11 from 8:30 to 9:30, and it was a lot of the same
12 members, not Gary involved.

13 Q. Okay.

14 A. As I recall it. So to kind of
15 complete this, when I came on board, I think it
16 was that very next week, I told Gary, let's stop
17 your meeting. It's just using our time up.

18 Q. Just consolidate into one?

19 A. We need every hour we've got to
20 get after this. So we ended that meeting. I
21 took over the next hour meeting with everybody.
22 We'd review things. I honestly don't -- I'm
23 sure there's lots of things on here we
24 incorporated into going forward. I don't

1 remember using this form again. I'm sure we
2 added much, much more to it.

3 And at the committee meeting, I
4 think I ran those meetings, and they were
5 updates, and I told the executive team that you
6 can see was on that what I needed and what I
7 needed them to do. I don't recall any decisions
8 coming out of that meeting different than what I
9 came in and asked for.

10 Q. And these meetings, how often were
11 these meetings of this anti-diversion committee?

12 A. Well, as he calls out, I would
13 have to assume they did happen.

14 Q. Do you recall them happening?

15 A. I -- yeah, I've got a recollection
16 of a couple, and I can see myself in conference
17 rooms. They weren't -- they weren't top
18 priority to me. I'll be very frank. I was busy
19 getting after what had to be done, and they were
20 there to support me. I knew that, and -- but,
21 of course, we needed to report to them what are
22 we doing, where are we going, what things do we
23 need to do strategy-wise, working with the DEA,
24 to putting systems in, to figuring out all the

1 elements of our -- of our improvements.

2 Q. And do you know if there were
3 minutes kept of these meetings?

4 A. I don't remember, but I'm -- I --
5 I'm certain there weren't.

6 Q. Okay. And, again --

7 A. Because I probably would have had
8 to keep them.

9 Q. So if you go down on
10 Mr. Henderson's e-mail to the third paragraph.
11 It says, "Initially the intent, this group will
12 meet twice weekly."

13 A. I'm sorry. You're on --

14 Q. The first page.

15 A. Yeah. Okay. I'm sorry.

16 Q. "From 5:00 to 6:00 on Tuesdays and
17 Thursdays. This meeting will be added to your
18 calendar. Please make every effort to attend if
19 you can. Otherwise you'll get a call-in
20 number."

21 A. I don't remember that happening.
22 You know, long, with two nights a week. As I
23 took over, and I think the confidence was pretty
24 high that I had -- was getting my handles on

1 it -- getting my handle on it, and pushing our
2 team to where we needed to go to respond to the
3 DEA guidelines for Cardinal. So I can't tell
4 you I remember meeting Tuesdays and Thursdays
5 for any extensive period of time.

6 Q. Now, earlier Mr. Pyser also asked
7 you that there -- whether there was or wasn't a
8 corporate anti-diversion group, right, in '06
9 and '07?

10 A. Okay.

11 Q. Do you recall that testimony?

12 A. I -- you know, I think I do.

13 Q. Okay. And we looked at an actual
14 organizational chart that set out there was a
15 corporate group, and there was five members of
16 that corporate group, and Mr. Reardon was at the
17 top of that chain.

18 Do you remember that?

19 A. Yes.

20 Q. So that was the corporate
21 anti-diversion group, correct?

22 A. I believe that's right.

23 Q. And they had to oversee all the
24 distribution centers country-wide, five of them,

1 one of them being a secretary, correct,
2 administrative assistant?

3 A. Wasn't it -- five in position.

4 Q. Correct. They were seeking more,
5 but they had not gotten them?

6 A. I recall.

7 (Reporter clarification.)

8 A. I said, "I recall."

9 Q. Okay.

10 MR. PYSER: Counsel, by my count,
11 I think we're now at 18 minutes of your,
12 I guess, recross.

13 MR. FULLER: Okay. Yeah. And I
14 still had time on my initial seven. So
15 I get my time.

16 MR. PYSER: As I read the
17 deposition protocol, you're done,
18 but ...

19 MR. FULLER: We can agree to
20 disagree.

21 MR. PYSER: I'll put the objection
22 on and ...

23 MR. FULLER: Fair enough.

24

1 BY MR. FULLER:

2 Q. Do you recollect before you
3 came -- and you talked about automating the
4 system, the metrics. Prior to '07 when you came
5 in, anti-diversion was operating under a manual
6 system, correct?

7 MR. PYSER: Object to form.

8 A. I'm not sure what system they were
9 operating under.

10 Q. So you don't have any idea whether
11 it's some sort of automated or whether it was a
12 manual system?

13 A. I don't recall.

14 MR. FULLER: Fair enough. I don't
15 have anything further.

16 MR. PYSER: Nothing further.

17 THE VIDEOGRAPHER: It is now 6:27.

18 This concludes the deposition. We're
19 going off the record.

20 MR. PYSER: We can stay on the
21 record. We don't need the video.

22 Just two things real quick. I
23 want to make a request on the record
24 that any demonstratives or other

1 documents that were shown to the witness
2 or used today can be put into the
3 record. So that's one request.

4 Counsel, is that acceptable?

5 MR. FULLER: That's fine.

6 MR. PYSER: And the second is,
7 when we were doing appearances, I don't
8 think everyone in the room introduced
9 themselves. I just wanted to make sure
10 we get a record of everyone who was in
11 the room.

12 MR. FULLER: Sure.

13 MR. PYSER: If you were here and
14 didn't announce yourself as an
15 attorney --

16 MR. FULLER: So everybody who's
17 not an attorney, announce themselves.

18 MS. SHIVERS: Karla Shivers for
19 the Plaintiffs, litigation paralegal.

20 MR. VELDMAN: Gina Veldman with
21 Golkow Technology.

22 MR. FULLER: Twila?

23 MS. HULETT: Twila Hulett for the
24 Plaintiff.

1 MR. FULLER: Edna?

2 MS. JAMISON: Edna Jamison for the
3 Plaintiff.

4 MR. FULLER: I think that's it.

5 MR. PYSER: Thank you.

6 MR. FULLER: I'm sorry. And for
7 the record, we're also marking --
8 Plaintiff's 32 was the other
9 demonstrative drawing.

10 - - -

11 (Cardinal-Hartman Exhibit 32 marked.)

12 - - -

13 MS. QUEZON: And Archie Lamb was
14 here on behalf of the Plaintiffs as
15 well. He was in and out, and I don't
16 think he was here when we announced
17 ourselves --

18 MR. FULLER: That's true.

19 MS. QUEZON: -- for the record.

20 (Signature not waived.)

21 - - -

22 Thereupon, at 6:28 p.m., on Friday,
23 November 15, 2018, the deposition was concluded.

24 - - -

1 CERTIFICATE

2 STATE OF OHIO :

SS:

3 COUNTY OF FRANKLIN :

4

5 I, MARK HARTMAN, do hereby certify that I
6 have read the foregoing transcript of my
7 cross-examination given on November 15, 2018; that
8 together with the correction page attached hereto
9 noting changes in form or substance, if any, it is
10 true and correct.

11

MARK HARTMAN

12

13 I do hereby certify that the foregoing
14 transcript of the cross-examination of MARK HARTMAN
15 was submitted to the witness for reading and signing;
16 that after he had stated to the undersigned Notary
17 Public that he had read and examined his
18 cross-examination, he signed the same in my presence
19 on the _____ day of _____, 2018.

20

21

NOTARY PUBLIC - STATE OF OHIO

22

23 My Commission Expires:

24 _____, _____.

CERTIFICATE

STATE OF OHIO

:

SS:

COUNTY OF FRANKLIN :

I, Carol A. Kirk, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named MARK HARTMAN was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by him was by me reduced to stenotype in the presence of said witness; that the foregoing is a true and correct transcript of the deposition so given by him; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by any attorney or party hereto or financially interested in the action; and I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio on this 20th day of November 2018.

CAROL A. KIRK, RMR

NOTARY PUBLIC - STATE OF OHIO

My Commission Expires: April 9, 2022.

- - -

1 DEPOSITION ERRATA SHEET

2 I, MARK HARTMAN, have read the transcript
of my deposition taken on the 15th day of November
3 2018, or the same has been read to me. I request that
the following changes be entered upon the record for
4 the reasons so indicated. I have signed the signature
page and authorize you to attach the same to the
5 original transcript.

6 Page Line Correction or Change and Reason:

7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
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22	_____	_____	_____
23	_____	_____	_____
24	Date _____	Signature _____	_____